

State Infrastructure Council

MEETING PACKET

**Tuesday, April 18, 2006
4:00 pm – 6:00 pm
404 House Office Building**

**Representative David D. Russell, Chair
Representative Adam Hasner, Vice Chair**

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

State Infrastructure Council

Start Date and Time: Tuesday, April 18, 2006 04:00 pm

End Date and Time: Tuesday, April 18, 2006 06:00 pm

Location: 404 HOB

Duration: 2.00 hrs

Consideration of the following bill(s):

HB 683 CS Growth Management by Traviesa
HB 905 CS Transportation Concurrency Management by Goodlette
HB 989 CS Motor Fuel Taxes by Detert
HB 1465 CS Speed Limit Enforcement on State Roads by Altman
HB 1489 CS State's Aerospace Industry by Waters
HB 1583 CS Community Redevelopment by Davis, M.
HB 1589 CS Specialty License Plates by Smith
HB 7031 CS Department of State by Tourism Committee
HB 7253 Growth Management by Growth Management Committee

Workshop on the following:

HB 949 CS Municipalities by Arza

NOTICE FINALIZED on 04/14/2006 14:51 by DUNAWAY.JOYCE



The Florida House of Representatives

State Infrastructure Council

Allan G. Bense
Speaker

David D. Russell, Jr.
Chair

AGENDA

April 18, 2006

4:00 pm – 6:00 pm

404 House Office Building

- I. Opening Remarks, Chair Dave Russell**
- II. Consideration of the following bills:**
 - **CS/HB 683 by Rep. Traviesa – Growth Management**
 - **CS/HB 905 by Rep. Goodlette – Transportation Concurrency Management**
 - **CS/HB 989 by Rep. Detert – Motor Fuel Taxes**
 - **CS/HB 1465 by Rep. Altman – Speed Limit Enforcement on State Roads**
 - **CS/HB 1489 by Rep. Waters – State's Aerospace Industry**
 - **CS/HB 1583 by Rep. M. Davis – Community Redevelopment**
 - **CS/HB 1589 by Rep. Smith – Specialty License Plates**
 - **HB 7031 by Tourism Committee – Department of State**
 - **HB 7253 by Growth Management Committee – Growth Management**
- III. Workshop on the following bill:**
 - **CS/HB 949 by Rep. Arza - Municipalities**
- IV. Closing Remarks, Chair Russell**
- V. Adjourn**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 683 CS

Growth Management

SPONSOR(S): Traviesa

TIED BILLS:

IDEN./SIM. BILLS: SB 1020

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government Council</u>	<u>8 Y, 0 N, w/CS</u>	<u>Strickland</u>	<u>Hamby</u>
2) <u>Growth Management Committee</u>	<u>9 Y, 0 N, w/CS</u>	<u>Strickland</u>	<u>Grayson</u>
3) <u>Transportation & Economic Development Appropriations Committee</u>	<u>16 Y, 1 N</u>	<u>McAuliffe</u>	<u>Gordon</u>
4) <u>State Infrastructure Council</u>		<u>Strickland</u> <i>P.S.</i>	<u>Havlicak</u> <i>RH</i>
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 683 w/CS makes several changes to existing law governing developments of regional impact (DRI). The bill:

- Makes revisions to current statutory law relating to a binding letter determination made by the Department of Community Affairs (DCA);
- Makes various revisions and additions to the existing statutory law pertaining to development orders and permits issued by local governments;
- Revises the definition of an "essentially built-out development;"
- Provides bonuses for a developer providing a certain level of affordable housing;
- Revises the criteria under which a proposed change is presumed to create a substantial deviation requiring further review;
- Requires that notice of certain changes be given to DCA, the appropriate regional planning agency, and local government, and requires that a memorandum of notice of certain changes be filed with the clerk of court;
- Revises the period of time for notice and a public hearing after a change to a development order;
- Revises statutory exemptions to the DRI process;
- Expressly removes marina and port facilities from DRI review;
- Revises how certain statewide guidelines and standards are applied to determine whether a development must undergo DRI review;
- Revises existing law pertaining to consistency challenges made to a DRI development order;
- Revises the vested rights and duties as they relate to provisions of this bill; and
- Amends the legislative findings and the definition of "recreational and commercial working waterfronts."

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill streamlines aspects of the development of regional impact (DRI) process, thereby reducing responsibilities for governmental and private organizations.

Safeguard individual liberty - The bill reduces government oversight of some activities presently reviewed as DRIs, and thereby increases the options of individuals regarding the conduct of their own affairs.

B. EFFECT OF PROPOSED CHANGES:

Background

Section 380.06, F.S., governs the DRI program and establishes the basic process for DRI review. The DRI program is a vehicle that provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county. For those land uses that are subject to review, numerical threshold guidelines are identified in s. 380.0651, F.S., and Chapter 28-24, F.A.C. Examples of the land uses for which guidelines are established include:

- airports;
- attractions and recreational facilities;
- industrial plants and industrial parks;
- office parks;
- port facilities, including marinas;
- hotel or motel development;
- retail and service development;
- recreational vehicle development;
- multi-use development;
- residential development; and
- schools.

The DRI review process involves the regional review of proposed developments meeting the defined thresholds by the regional planning councils to determine the extent to which:

- The development will have a favorable or unfavorable impact on state or regional resources or facilities;
- The development will significantly impact adjacent jurisdictions; and
- The development will favorably or adversely affect the ability of people to find adequate housing reasonably accessible to their places of employment.

Percentage thresholds, as defined in s. 380.06(2)(d), F.S., are applied to the guidelines and standards. These fixed thresholds provide that if a development is at or below 100 percent of all numerical thresholds in the guidelines, the project is not required to undergo DRI review. If a development is at or above 120 percent of the guidelines, it is required to undergo DRI review. A rebuttable presumption is established whereby a development at 100 percent of a numerical threshold, or between 100-120 percent of a numerical threshold, is presumed to require DRI review.

If there is a concern over whether a particular development is subject to DRI review, the developer may request a determination from the DCA. DCA or the local government with jurisdiction over the land to be used for the proposed development may require a developer to obtain a binding letter of interpretation if the development is at a presumptive threshold or up to 20 percent above the established numerical threshold. Any other local government may petition DCA to require a binding letter of interpretation for a development located in an adjacent jurisdiction if the petition contains sufficient facts to find that the development as proposed constitutes a DRI.

Under s. 380.06(19), F.S., any proposed change to a previously approved DRI which creates a reasonable likelihood of additional regional impact or any type of regional impact, resulting from a change not previously reviewed by the regional planning council, constitutes a "substantial deviation" that subjects the development to further DRI review and entry of a new or amended local development order. Section 380.06(19), F.S., provides that a proposed change to a previously approved DRI which, either individually or cumulatively with other changes, exceeds specified criteria constitutes a substantial deviation and is subject to further DRI review.

The extension of the date of buildout of a development, or any phase thereof, of 5 years or more but less than 7 years is presumed not to create a substantial deviation. However, the extension of buildout by 7 or more years is presumed to create a substantial deviation and is subject to further DRI review. However, this presumption may be rebutted by clear and convincing evidence at the public hearing held by the local government. When calculating whether a buildout date has been exceeded, time is tolled during the pendency of administrative or judicial proceedings relating to development permits.

Marinas

In 2002, the Legislature created an exemption for marinas from DRI review. This exempting occurs if the local government has adopted a boating facility siting plan or policy within its comprehensive plan.

The DCA, in cooperation with the Department of Environmental Protection and the Florida Fish and Wildlife Conservation Commission, makes available a best practices guide to assist local governments in developing boating facility siting plans. A boating facility siting plan provides a framework for identifying locations that can accommodate boating interests while protecting manatees, seagrass beds, and other marine resources.

Multiuse Developments

Section 380.06(2)(e), F.S., increases the applicable guidelines and standards by 100 percent for multiuse projects in urban central business districts and regional activity centers if the local government's comprehensive plan is in compliance with part II of ch. 163, F.S., and if one land use in the multiuse development is residential and amounts to not less than 35 percent of the jurisdiction's applicable residential threshold. An urban central business district is defined as the urban core area of a municipality with a population of 25,000 or greater which is located within an urbanized area as identified in the 1990 census.¹ Such a district must contain high intensity, high density multi-use development which includes "retail, office, cultural, recreational and entertainment facilities, hotels or motels, or other appropriate industrial activities."² A regional activity center is defined as a compact, high intensity, high density multi-use area that is designated appropriate for intensive growth by the local government. It includes the same uses as an urban central business district.³

Currently, the individual DRI threshold is increased by 50 percent within an urban central business district or a regional activity center. However, the multiuse DRI threshold within such a district or center enjoys a 100 percent increase.

¹ Rule 28-24.014(10)(c)1., F.A.C.

² Id.

³ Rule 28-24.014(10)(c)2, F.A.C.

Development Order Appeals

Currently there are two mechanisms by which an appeal may be sought on the grounds that a development order (DO) rendered for a DRI is inconsistent with the comprehensive plan adopted by the local government. The first is to appeal a development order under s.163.3215, F.S., within the circuit court with proper jurisdiction. The second is to appeal a development order under s. 380.06, F.S., to the Florida Land and Water Adjudicatory Commission (FLWAC).

Under existing law (s. 163.3215, F.S.), an “aggrieved or adversely affected party” may bring an appeal to challenge local government’s issuance of a development order (an order of local government granting, denying, or granting with conditions, an application for a development permit) as not being consistent with the local comprehensive plan. Appeals of this type are filed in the local circuit court. Existing law also contains another opportunity to appeal the local government’s issuance of a development order. Under another section of existing law (s. 380.07, F.S.) the owner, the developer, or the DCA may appeal a development order that relates to a DRI to FLWAC. Further, it is possible for the same development order to be challenged in both the circuit court and FLWAC. In such instances, the two challenge processes may lead to different results causing confusion for all the affected interests.

Effect of Proposed Change

HB 683 w/CS amends existing law and creates new law related to DRI. A DRI by definition is “any development which, because of its character, magnitude, or location, would have a substantial effect upon the health, safety, or welfare of citizens of more than one county.”⁴ Specifically, the bill establishes:

- A process for review of DRIs and for the issuance of a DO which details specifics regarding the scope and timing of the development and serves as the authority to commence and complete the development;
- What constitutes a “substantial deviation” of the DO which would necessitate additional review;
- Statutory exemptions that prevent DRI review;
- Statewide guidelines and standards for determining what activities require DRI review; and
- Vested rights and associated duties of the respective parties.

Details of the changes to existing law are outlined below.

Required and Optional Elements of the Comprehensive Plan

The bill provides encouragement for affected local governments to adopt a boating facility siting plan and provides possible eligibility for assistance with creation of the plan from the Florida Coastal Management Program.

Binding Letter and Development Order

The bill amends existing law to allow either a developer or the local government having jurisdiction over a DRI to ask DCA to determine whether the local government may issue permits for development subsequent to the buildout date. The determination may take the form of a formal binding letter or an informal clearance letter. Specifically, the determination is whether the DRI meets criteria newly created in s. 380.06(15)(g)3, F.S., which provides that:

⁴ s. 380.06(1), F.S.

- The developer has satisfied all mitigation required in the DO.
- The development is in compliance with all applicable terms and conditions of the DO, except the buildout date; and
- The amount of remaining proposed development is less than 20 percent of any applicable DRI threshold.

This new feature provides for limited development beyond the DRI buildout date when the existing and remaining development meets the criteria.

The bill allows a single-family residential portion of a project to be considered “essentially built out” if:

- All the infrastructure and horizontal development has been completed;
- At least 50 percent of the dwelling units have been completed; and
- More than 80 percent of the lots have been conveyed to third party buyers or to individual builders who own no more than 40 lots at the time of the determination.

The bill allows mobile home portions of a development to be considered “essentially built out” if:

- All the infrastructure and horizontal development has been completed, and
- At least 50 percent of the lots are leased to individual mobile home owners.

The bill amends the following statutory provisions relating to DOs:

- Termination date – Existing law provides that the local government’s DO specify a “termination date” before which certain land use changes would not apply to the approved DRI unless a substantial deviation occurs. The bill amends existing law to provide that the DO may not specify that date as being earlier than the “buildout date.” s. 380.06(15)(c)3., F.S.
- Notice of proposed change – Existing law provides that the DO may specify the types of changes which would require a substantial deviation determination. The bill amends existing law by extending that language to include a “notice of proposed change.” s. 380.06(15)(c)5., F.S.
- Competitive bidding or competitive negotiation – Existing law provides that a local government may require competitive bidding or competitive negotiation where construction or expansion of a public facility is conducted by a nongovernmental developer as a condition of a DO or to mitigate impacts reasonably attributable to the development. The bill amends existing law by removing that discretion and thus disallows local government from requiring competitive bidding. s. 380.06(15)(d)4., F.S.

Substantial Deviations

The bill amends existing law pertaining to the percentage and unit thresholds and provides for a presumption that the activities trigger DRI review. Existing law strictly requires DRI review when percentage and unit thresholds are met or exceeded. The amended percentage and unit thresholds follow.

- Attraction or recreational facility - The bill amends the thresholds to the greater of an increase of 10 percent or 330 parking spaces (from 5 percent or 300 spaces), or an increase to the greater of 10 percent or 1,100 spectators (from 5 percent or 1000 spectators).
- Hospitals – The bill deletes the threshold for hospitals.
- Industrial – The bill amends the threshold to the greater of 10 percent or 35 acres (from 5 percent or 32 acres).
- Mines - The bill amends the threshold to the greater of an increase in the average annual acreage mined by 10 percent or 11 acres (from 5 percent or 10 acres) or to the greater of an increase in the average daily water consumption by a mining operation by 10 percent or 330,000 gallons (from 5 percent or 300,000 gallons). It is further amended to the lesser of an increase of the size of the mine by 10 percent or 825 acres (from 5 percent or 750 acres).
- Office development – The bill amends the threshold to the greater of an increase in land area by 10 percent (from 5 percent) or an increase of gross floor area by 10 percent (from 5 percent) or 66,000 square feet (from 60,000).
- Storage capacity for chemical or petroleum storage facilities – The bill deletes the threshold for these facilities.
- Waterport or wet storage – The bill deletes the threshold for waterport or wet storage.
- Dwelling units – The bill amends the threshold to the greater of 10 percent or 55 dwelling units (from 5 percent or 50 dwelling units).
- Workforce housing dwelling units – The bill creates a threshold to the greater of 50 percent or 200 units, provided that 15 percent of the increase in the number of dwelling units is restricted to the construction of workforce housing (affordable to a person who earns less than 150 percent of the area median income).
- Commercial development – The bill amends the threshold to the greater of 55,000 square feet (from 50,000 square feet) of gross floor area; or of parking spaces for customers for 330 cars (from 300 cars); or a 10 percent increase (from 5 percent increase) of either of these.
- Hotel or motel rooms – The bill amends the threshold to the greater of an increase in hotel or motel rooms by 10 percent or 83 rooms (from 5 percent or 75 units).
- Recreational vehicle park area – The bill amends the threshold to the lesser of an increase in a recreational vehicle park area by 10 percent (from 5 percent) or 110 vehicle spaces (from 100 vehicle spaces).
- Approved multiuse DRI – The bill amends the threshold to 110 percent (from 100 percent) of the sum of the increases of each land use as a percentage of the applicable substantial deviation criteria.

The bill amends existing law in the following ways relating to presumptions concerning substantial deviations:

- Presumption of a substantial deviation – A presumption of substantial deviation is created by an extension of the buildout date of more than 7 years (from 7 or more years).

- Presumption of no substantial deviation – A presumption of no substantial deviation is created by an extension of the buildout date of more than 5 years (from 5 or more years), but less than 7 years.
- No substantial deviation - An extension of the buildout date of 5 years or less (from less than 5 years) is not a substantial deviation.

The bill establishes that the following changes do not constitute substantial deviations:

- Protected lands -
 - The bill provides that changes that modify boundaries due to science-based refinement of such areas by survey, habitat evaluation, other recognized assessment methodology, or an environmental assessment.
 - The bill provides that this only applies to areas previously set aside for preservation or special protection of endangered or threatened plants or animals designated as endangered, threatened, or species of special concern and their habitat, primary dunes, or archaeological and historical sites designated as significant by the Division of Historical Resources of the Department of State.

The bill amends existing law to provide for notice prior to implementation of the types of non substantial deviation changes addressed above. The specific requirements are as follows:

- Notice – The bill does not require the filing of a notice of proposed change, but, requires the local government to follow the locally adopted procedures relating to amending a development order.
- Appellate procedure: After adopting the amended DO, the local government is required to submit the amendment to DCA. DCA may then appeal under certain conditions if it believes the change creates a reasonable likelihood of new or additional regional impacts.

The bill amends existing law as it pertains to proposed changes that require further DRI review as follows:

- Scope of mitigation – The bill amends existing law to limit the scope of mitigation required as a result of a proposed change to a DO. The amended language limits such new mitigation to the individual and cumulative impacts caused only by the proposed change.
- Continuance of development – The bill amends existing law by providing that development within the DRI may continue during the DRI review in those portions of the development which are not “directly” affected by the proposed change.

Statutory Exemptions

The bill amends current DRI exemptions providing that if a use is exempt from review as a DRI under s. 380.06(24), F.S., but is a part of a larger project that is subject to review as a DRI, the impact of the exempt use must be included in the review of the larger project.

- Hospitals – The bill removes the 100 bed capacity limitation; thus providing that all hospitals are exempt.
- Steam or solar electrical generating facility - The bill removes the exception from the statutory exemption of a steam or solar electrical generating facility of less than 50 megawatts in capacity

attached to a DRI from the exemption for proposed electrical transmission lines or electrical power plants.

- Adjacent jurisdictions – The bill amends existing law which allows a DRI exemption for certain proposed development within an urban service area. The amendment changes one of the criteria for the exemption that requires a binding agreement with adjacent jurisdictions and the Department of Transportation (DOT) regarding impacts on state and regional transportation facilities. The amendment changes the requirement so that the binding agreement must be entered into with jurisdictions “that would be impacted” and DOT.
- Petroleum Storage Facility – The bill removes the requirement that a proposed facility for the storage of any petroleum product or expansion of an existing facility be consistent with the local comprehensive plan and with a comprehensive port master plan.
- Waterport and Marina Development – The bill provides an express exemption of waterport and marina development and all criteria pertaining to the current limited exemption is deleted to conform to these changes in the bill.

The bill creates five new exemptions to existing law as follows:

- Self storage warehousing – The bill provides an exemption for any self-storage warehousing that does not allow retail or other services.
- Nursing home or assisted living facility – The bill provides an exemption for any proposed nursing home or assisted living facility.
- Airport master plan – The bill provides an exemption for any development identified in an airport master plan and adopted into the comprehensive plan.
- Campus master plan – The bill provides an exemption for any development identified in a campus master plan and adopted pursuant to s. 1013.30, F.S. (related to campus master plans and campus DOs).
- Specific area plan – The bill provides an exemption for any development in a specific area plan which is prepared pursuant to s. 163.3245, F.S., (related to optional sector plans) and adopted into the comprehensive plan.

Partial Exemptions

The bill creates new law limiting the requirement that three exemptions only will apply if the local government has entered into a binding agreement with DOT and jurisdictions “that would be impacted.”

- Urban service boundaries (USB) – The bill provides that if the binding agreement is not entered into within 12 months after establishment of the USB, then DRI review shall address transportation impacts only.
- Rural land stewardship – The bill provides that if the binding agreement is not entered into within 12 months after the designation of a rural land stewardship area, then DRI review shall address transportation impacts only.
- Urban infill and redevelopment area – The bill provides that if the binding agreement is not entered into within 12 months after the designation of the area or July 1, 2007, whichever occurs later, then DRI review shall address transportation impacts only.

- Notification to DCA - The bill provides that notification must be submitted by the local government to DCA stating that the local government either does not wish, or has not been able, to enter into a binding agreement within the 12 month period, after which, the DRI within the USB, rural land stewardship areas, or urban infill and redevelopment area must address transportation impacts only.

Statewide Guidelines and Standards

The bill amends existing law addressing how certain statewide guidelines and standards are applied to determine whether a development must undergo DRI review.

- Waterport and Marina Development – The bill expressly provides that waterport and marina development, including dry storage facilities, are exempt from DRI review. All criteria pertaining to the current limited exemption is deleted to conform to these changes in the bill.
- Workforce housing – The bill creates an increased threshold (increased by 50 percent) for residential development and the residential component for multiuse development when the developer demonstrates that at least 15 percent of the residential dwelling units will be dedicated to housing that is affordable to a person who earns less than 150 percent of the area median income, i.e., workforce housing.

Florida Land and Water Adjudicatory Commission (FLWAC)

The bill amends existing law related to challenges of a DO based on consistency to provide the following:

- Consistency challenges – The bill allows the appeal of a DO to FLWAC by DCA to include challenges that the DO is not consistent with the local comprehensive plan. If a challenge to the DO relating to the DRI has been filed under s. 163.3215, F.S., and notice is served on DCA, then the DCA must intervene in that pending proceeding and raise its consistency issues within 30 days after service. Further, DCA must dismiss the consistency issues from its DO appeal to the FLWAC. The filing of the petition stays the effectiveness of the DO until after completion of the appeal process.

Vested Rights and Duties

The bill amends existing law related to the vested rights of DRIs. The amendment makes changes as follows:

- The bill provides that vested rights are not abridged or modified by a change in the DRI guidelines and standards.
- The bill revises the procedures affecting a DRI which is no longer required to undergo DRI review because of a change in the guidelines or standards, or because of a reduction that lowers the development below the thresholds.
- The bill provides that the local government having jurisdiction shall rescind the DO upon a showing by the developer or the landowner that all required mitigation related to the amount that existed on the date of rescission has been completed.
- The bill provides that unless the developer follows this procedure, the DRI continues to be governed by, and may be completed in reliance upon, the DO.

- The bill provides that if an application for development approval, or a notification of proposed change, is pending on the effective date of a change to the guidelines and standards, then the development may elect to continue the DRI review which is governed by the vested rights provision.

Recreational and Commercial Working Waterfronts

The bill amends existing law relating to the legislative findings and the definition of “recreational and commercial working waterfront” in the following ways:

- Legislative findings – The bill amends the findings as follows:
 - The bill expands the statement of important state interest to include “other recreation access” to the state’s navigable waters.
 - The bill adds tourism, with a \$57 billion annual economic impact, as a vital industry to be protected.
 - The bill adds a statement that by expanding the importance of water access beyond recreational users to include “tourist.”
 - The bill adds “public lodging establishments” to those water-dependent support facilities as important state interests to be maintained.
- Definition of “recreational and commercial working waterfront” – The bill adds water-dependent “recreational activities including public lodging establishments as defined in chapter 509” to the definition.
- Tax Deferral – The bill adds “public lodging establishments” to s. 197.303, F.S., to add greater specificity for a local ordinance designating the type of location of working waterfront properties that are eligible for tax deferrals.

C. SECTION DIRECTORY:

Section 1: Amends s. 163.3177, F.S., relating to required and optional elements of comprehensive plans.

Section 2: Amends s. 163.3180, F.S., relating to concurrency.

Section 3: Amends s. 197.303 relating to ad valorem tax deferral for recreational and commercial working waterfront properties.

Section 4: Amends s. 342.07, F.S., relating to recreational and commercial waterfronts.

Section 5: Creates s. 373.4132, F.S., relating to permitting process for dry storage facilities.

Section 6: Amends s. 380.06, F.S., relating to developments of regional impact (DRI).

Section 7: Amends s. 380.0651, F.S., relating to statewide guidelines and standards for determining what development activities must undergo DRI review.

Section 8: Creates s. 380.07, F.S., relating to the Florida Land and Water Adjudicatory Commission.

Section 9: Amends s. 380.115, F.S., relating to vested rights and duties of DRI projects as it relates to the provisions of this bill taking effect.

Section 10: Amends s. 403.813, F.S., relating to exceptions to the required permits at district centers.

Section 11: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have a fiscal impact on state government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on state government expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have a fiscal impact on local government revenues.

2. Expenditures:

The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The development community would benefit from increased thresholds and expanded exemptions from the DRI review process.

D. FISCAL COMMENTS:

No additional fiscal comments.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

N/A.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 8, 2006, the Local Government Council adopted a strike-all amendment. The strike-all amendment made changes to the original filed bill as outlined below.

- **Biennial Reports:**

- Removes the requirement to submit biennial rather than annual reports.

- Removes the penalty for failure to submit a biennial report.
- Rulemaking: Removes the requirement for DCA to initiate rulemaking by August 1, 2006 to revise the DRI review process.
- Substantial Deviations:
 - Thresholds: Lowers, across the board, the substantial deviation thresholds (which are still slightly higher than those in existing law).
 - Doubles the threshold for marinas under certain circumstances
 - Triggering Time Periods: Changes the time periods relative to triggering a substantial deviation:
 - More than 7 years creates a presumption of a substantial deviation.
 - More than 5 years, but less than 7 years, creates a presumption of no substantial deviation.
 - Five years or less does not constitute a substantial deviation.
 - Activities That Do No Trigger: Removes “internal utility locations” and “internal location of public facilities” as activities that expressly do not constitute substantial deviations.
 - Workforce Housing: Creates a substantial deviation threshold bonus for the provision of workforce housing.
- DRI Exemptions:
 - Restores the term “waterport” in conjunction with marinas as relates to certain exemptions.
 - Removes exceptions from transportation concurrency as a new exemption to DRI review.
- Urban Service Area Binding Agreement:
 - Substitutes language describing what constitutes a statutory exemption; replacing the phrase “jurisdictions that would be impacted” for the phrase “contiguous jurisdiction.”
 - Establishes that if local government fails to enter into a binding agreement within 12 months, then the DRI review is limited to transportation issues only. Further, local government must report to DCA such failure to enter a binding agreement.
- Statewide Guidelines and Standards for Determining Whether a Particular Activity Undergoes DRI Review:
 - Restores to existing statutory language the guidelines and standards related to: airports; attractions & recreation facilities; schools; and aggregation.
 - Restores “port facility” in conjunction with marinas related to statewide guidelines and standards.
 - Reestablishes existing law related to spaceport launch facilities and concurrency.
 - Workforce Housing: Creates a bonus against the applicable guidelines for the provision of workforce housing.
- Consistency Challenges: Further revises procedures for consistency challenges to FLWAC.
- Binding Letter:
 - Authorizes local governments in addition to the developer to request a binding letter.
 - Expands DCA’s authority to issue a clearance letter to determine whether the amount of development that remains to be built will constitute “essentially built- out.”
- Working Waterfront: Adds tourism and its economic impact to the legislative findings; and adds “public lodging establishments” and “recreational activities”; to existing law relating to working waterfronts.

On March 21, 2006, the Growth Management Committee adopted a strike-all amendment. The strike-all amendment made changes to the bill as outlined below.

- “Essentially built out.” Provides additional criteria for a development to be considered “essentially built out.”
- Substantial Deviation:
 - Notice: Provides that a notice for changes that do not rise to the level of substantial deviation do not require a “notice of proposed change,” but do require an application to the local government to amend the DO in accordance with the local government’s procedures.

- Removal of Marinas: Conforms to the removal of marinas from the DRI process by deleting the language pertaining to a substantial deviation triggering further DRI review.
- Science Based Refinements:
 - Provides that the survey, habitat evaluation, or assessment must occur prior to the time a conservation easement protecting the lands is recorded and must not result in any net decrease in the total acreage of the lands specifically set aside for permanent preservation in the final DO.
 - Expands the criteria for which land is protected to include the DO for the protection of species protected by 16 U.S.C. ss. 668a-668d.
- DRI Exemptions:
 - Petroleum storage tanks: Removes the requirement that to be exempt from DRI review, any petroleum storage facility must be consistent with a local comprehensive plan or comprehensive port master plan.
 - Waterports and Marina Development: Removes the criteria for the exemption of waterport and marina development from DRI Review to conform to an express exemption of waterport and marina development, including dry storage facilities (provided for in this act).
 - Rural Land Stewardship: Provides for a DRI review of transportation impacts only if the required binding agreement with those jurisdictions impacted and DOT is not reached within the required 12 months (identical to the provisions for urban infill and redevelopment areas & urban service boundaries).
- Statewide Guidelines and Standards for Determining Whether a Particular Activity Undergoes DRI Review:
 - Port Facilities: Removes all standards and guidelines for determining whether port facilities should undergo DRI review to conform to an express exemption from DRI review for waterport and marina development, including dry storage facilities (provided for in this bill).
- Vested Rights and Duties: Provides that any proposed changes to developments that continue to be governed by a DO shall be evaluated by s. 380.06 (19), F.S., as it existed prior to the changes of the guidelines and standards provided for by this bill except that all percentage criteria shall be doubled and all other criteria shall be increased by 10 percent.
- Permitting of Dry Storage: Provides criteria for the requirement of a permit for the construction, alteration, operation, maintenance, abandonment or removal of a dry storage facility with 10 or more vessels.
- Docks: Provides that private docks of 1,000 sq. ft. or less of over-water surface area in artificially created waterways do not require a permit.
- Adoption of a boating facility siting plan: Provides encouragement for affected local governments to adopt a boating facility siting plan and provides possible eligibility for assistance with creation of the plan from the Florida Coastal Management Program.
- Working Waterfront: Conforms language to reflect changes made by this act relating to working waterfronts.
- Workforce Housing:
 - Substantial Deviation: Provides for an increase in the thresholds for creating a substantial deviation of dwelling units that include affordable housing. Specifically, the amendment provides that the following does not constitute a substantial deviation:
 - To the greater of 50 percent (from 15 percent) or 200 units (from 100 units), provided that 15 percent (from 20 percent) of the increase in the number of dwelling units is restricted to the construction of workforce housing (affordable to a person who earns less than 150 percent (from 120 percent) of the area median income)

- An increase in any number of residential units where all the residential dwelling units are dedicated to workforce housing (150 percent of area median income).
- Statewide Guidelines and Standards: Provides that the applicable guidelines for residential development and the residential component for multiuse development shall be increased by 50 percent where the developer demonstrates that at least 15 percent of the residential dwelling units will be dedicated to workforce housing (150 percent of the area median income).

HB 683 CS

2006
CS

CHAMBER ACTION

The Growth Management Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to growth management; amending s. 163.3177, F.S.; encouraging local governments to adopt boating facility siting plans; providing criteria and exemptions for such plans; authorizing assistance for the development of such plans; amending s. 163.3180, F.S.; conforming a cross-reference; amending s. 197.303, F.S.; revising the criteria for ad valorem tax deferral for working waterfront properties; including public lodging establishments in the description of working waterfront properties; amending s. 342.07, F.S.; adding recreational activities as an important state interest; including public lodging establishments within the definition of the term "recreational and commercial working waterfront"; creating s. 373.4132, F.S.; directing water management district governing boards and the Department of Environmental Protection to require permits for certain activities relating to certain dry storage facilities; providing criteria for application of such permits;

Page 1 of 46

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hb0683-02-c2

HB 683 CS

2006
CS

24 preserving regulatory authority for the department and
25 governing boards; amending s. 380.06, F.S.; providing for
26 the state land planning agency to determine the amount of
27 development that remains to be built in certain
28 circumstances; specifying certain requirements for a
29 development order; revising the circumstances in which a
30 local government may issue permits for development
31 subsequent to the buildout date; revising the definition
32 of an essentially built-out development; revising the
33 criteria under which a proposed change constitutes a
34 substantial deviation; clarifying the criteria under which
35 the extension of a buildout date is presumed to create a
36 substantial deviation; requiring that notice of any change
37 to certain set-aside areas be submitted to the local
38 government; requiring that notice of certain changes be
39 given to the state land planning agency, regional planning
40 agency, and local government; revising the statutory
41 exemptions from development-of-regional-impact review for
42 certain facilities; removing waterport and marina
43 developments from development-of-regional-impact review;
44 providing statutory exemptions and partial statutory
45 exemptions for the development of certain facilities;
46 providing that the impacts from an exempt use that will be
47 part of a larger project be included in the development-
48 of-regional-impact review of the larger project; amending
49 s. 380.0651, F.S.; revising the statewide guidelines and
50 standards for development-of-regional-impact review of
51 office developments; deleting such guidelines and

Page 2 of 46

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hb0683-02-c2

HB 683 CS

2006
CS

standards for port facilities; providing such guidelines and standards for workforce housing; amending s. 380.07, F.S.; revising the appellate procedures for development orders within a development of regional impact to the Florida Land and Water Adjudicatory Commission; amending s. 380.115, F.S.; providing that a change in a development-of-regional-impact guideline and standard does not abridge or modify any vested right or duty under a development order; providing a process for the rescission of a development order by the local government in certain circumstances; providing an exemption for certain applications for development approval and notices of proposed changes; amending s. 403.813, F.S.; revising permitting exceptions for the construction of private docks in certain waterways; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (g) of subsection (6) of section 163.3177, Florida Statutes, is amended to read:

163.3177 Required and optional elements of comprehensive plan; studies and surveys.--

(6) In addition to the requirements of subsections (1)-(5) and (12), the comprehensive plan shall include the following elements:

(g)1. For those units of local government identified in s. 380.24, a coastal management element, appropriately related to the particular requirements of paragraphs (d) and (e) and

HB 683 CS

2006
CS

meeting the requirements of s. 163.3178(2) and (3). The coastal management element shall set forth the policies that shall guide the local government's decisions and program implementation with respect to the following objectives:

a.1. Maintenance, restoration, and enhancement of the overall quality of the coastal zone environment, including, but not limited to, its amenities and aesthetic values.

b.2. Continued existence of viable populations of all species of wildlife and marine life.

c.3. The orderly and balanced utilization and preservation, consistent with sound conservation principles, of all living and nonliving coastal zone resources.

d.4. Avoidance of irreversible and irretrievable loss of coastal zone resources.

e.5. Ecological planning principles and assumptions to be used in the determination of suitability and extent of permitted development.

f.6. Proposed management and regulatory techniques.

g.7. Limitation of public expenditures that subsidize development in high-hazard coastal areas.

h.8. Protection of human life against the effects of natural disasters.

i.9. The orderly development, maintenance, and use of ports identified in s. 403.021(9) to facilitate deepwater commercial navigation and other related activities.

j.10. Preservation, including sensitive adaptive use of historic and archaeological resources.

HB 683 CS

2006
CS

2. As part of this element, affected local governments are encouraged to adopt a boating facility siting plan or policy that includes applicable criteria and considers such factors as natural resources, manatee protection needs, and recreation and economic demands as generally outlined in the Boat Facility Siting Guide dated August 2000 and prepared by the Bureau of Protected Species Management of the Fish and Wildlife Conservation Commission. A comprehensive plan that adopts a boating facility siting plan or policy is exempt from the provisions of s. 163.3187(1). Local governments that wish to adopt a boating facility siting plan or policy may be eligible for assistance with the development of a plan or policy through the Florida Coastal Management Program.

Section 2. Paragraph (a) of subsection (12) of section 163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.--

(12) When authorized by a local comprehensive plan, a multiuse development of regional impact may satisfy the transportation concurrency requirements of the local comprehensive plan, the local government's concurrency management system, and s. 380.06 by payment of a proportionate-share contribution for local and regionally significant traffic impacts, if:

(a) The development of regional impact meets or exceeds the guidelines and standards of s. 380.0651(3) (h) ~~(i)~~ and rule 28-24.032(2), Florida Administrative Code, and includes a residential component that contains at least 100 residential

HB 683 CS

2006
CS

134 dwelling units or 15 percent of the applicable residential
135 guideline and standard, whichever is greater;

136
137 The proportionate-share contribution may be applied to any
138 transportation facility to satisfy the provisions of this
139 subsection and the local comprehensive plan, but, for the
140 purposes of this subsection, the amount of the proportionate-
141 share contribution shall be calculated based upon the cumulative
142 number of trips from the proposed development expected to reach
143 roadways during the peak hour from the complete buildout of a
144 stage or phase being approved, divided by the change in the peak
145 hour maximum service volume of roadways resulting from
146 construction of an improvement necessary to maintain the adopted
147 level of service, multiplied by the construction cost, at the
148 time of developer payment, of the improvement necessary to
149 maintain the adopted level of service. For purposes of this
150 subsection, "construction cost" includes all associated costs of
151 the improvement.

152 Section 3. Subsection (3) of section 197.303, Florida
153 Statutes, is amended to read:

154 197.303 Ad valorem tax deferral for recreational and
155 commercial working waterfront properties.--

156 (3) The ordinance shall designate the percentage or amount
157 of the deferral and the type and location of working waterfront
158 property, including the type of public lodging establishments,
159 for which deferrals may be granted, which may include any
160 property meeting the provisions of s. 342.07(2), which property

HB 683 CS

2006
CS

may be further required to be located within a particular geographic area or areas of the county or municipality.

Section 4. Section 342.07, Florida Statutes, is amended to read:

342.07 Recreational and commercial working waterfronts; legislative findings; definitions.--

(1) The Legislature recognizes that there is an important state interest in facilitating boating and other recreational access to the state's navigable waters. This access is vital to tourists and recreational users and the marine industry in the state, to maintaining or enhancing the \$57 billion economic impact of tourism and the \$14 billion economic impact of boating in the state annually, and to ensuring continued access to all residents and visitors to the navigable waters of the state. The Legislature recognizes that there is an important state interest in maintaining viable water-dependent support facilities, such as public lodging establishments and boat hauling and repairing and commercial fishing facilities, and in maintaining the availability of public access to the navigable waters of the state. The Legislature further recognizes that the waterways of the state are important for engaging in commerce and the transportation of goods and people upon such waterways and that such commerce and transportation is not feasible unless there is access to and from the navigable waters of the state through recreational and commercial working waterfronts.

(2) As used in this section, the term "recreational and commercial working waterfront" means a parcel or parcels of real property that provide access for water-dependent commercial and

HB 683 CS

2006
CS

189 recreational activities, including public lodging establishments
190 as defined in chapter 509, or provide access for the public to
191 the navigable waters of the state. Recreational and commercial
192 working waterfronts require direct access to or a location on,
193 over, or adjacent to a navigable body of water. The term
194 includes water-dependent facilities that are open to the public
195 and offer public access by vessels to the waters of the state or
196 that are support facilities for recreational, commercial,
197 research, or governmental vessels. These facilities include
198 docks, wharfs, lifts, wet and dry marinas, boat ramps, boat
199 hauling and repair facilities, commercial fishing facilities,
200 boat construction facilities, and other support structures over
201 the water. As used in this section, the term "vessel" has the
202 same meaning as in s. 327.02(37). Seaports are excluded from the
203 definition.

204 Section 5. Section 373.4132, Florida Statutes, is created
205 to read:

206 373.4132 Dry storage facility permitting.--The governing
207 board or the department shall require a permit under this part,
208 including s. 373.4145, for the construction, alteration,
209 operation, maintenance, abandonment, or removal of a dry storage
210 facility for 10 or more vessels that is functionally associated
211 with a boat launching area. As part of an applicant's
212 demonstration that such a facility will not be harmful to the
213 water resources and will not be inconsistent with the overall
214 objectives of the district, the governing board or department
215 shall require the applicant to provide reasonable assurance that
216 the secondary impacts from the facility will not cause adverse

Page 8 of 46

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hb0683-02-c2

HB 683 CS

2006
CS

217 impacts to the functions of wetlands and surface waters,
218 including violations of state water quality standards applicable
219 to waters as defined in s. 403.031(13), and will meet the public
220 interest test of s. 373.414(1)(a), including the potential
221 adverse impacts to manatees. Nothing in this section shall
222 affect the authority of the governing board or the department to
223 regulate such secondary impacts under this part for other
224 regulated activities.

225 Section 6. Paragraph (d) of subsection (2), paragraphs (a)
226 and (i) of subsection (4) and subsections (15), (19), and (24)
227 of section 380.06, Florida Statutes, are amended, and subsection
228 (28) is added to that section, to read:

229 380.06 Developments of regional impact.--

230 (2) STATEWIDE GUIDELINES AND STANDARDS:--

231 (d) The guidelines and standards shall be applied as
232 follows:

233 1. Fixed thresholds.--

234 a. A development that is below 100 percent of all
235 numerical thresholds in the guidelines and standards shall not
236 be required to undergo development-of-regional-impact review.

237 b. A development that is at or above 120 percent of any
238 numerical threshold shall be required to undergo development-of-
239 regional-impact review.

240 c. Projects certified under s. 403.973 which create at
241 least 100 jobs and meet the criteria of the Office of Tourism,
242 Trade, and Economic Development as to their impact on an area's
243 economy, employment, and prevailing wage and skill levels that
244 are at or below 100 percent of the numerical thresholds for

HB 683 CS

2006
CS

245 industrial plants, industrial parks, distribution, warehousing
246 or wholesaling facilities, office development or multiuse
247 projects other than residential, as described in s.
248 380.0651(3)(c), (d), and (h)~~(i)~~, are not required to undergo
249 development-of-regional-impact review.

250 2. Rebuttable presumption.--It shall be presumed that a
251 development that is at 100 percent or between 100 and 120
252 percent of a numerical threshold shall be required to undergo
253 development-of-regional-impact review.

254 (4) BINDING LETTER.--

255 (a) If any developer is in doubt whether his or her
256 proposed development must undergo development-of-regional-impact
257 review under the guidelines and standards, whether his or her
258 rights have vested pursuant to subsection (20), or whether a
259 proposed substantial change to a development of regional impact
260 concerning which rights had previously vested pursuant to
261 subsection (20) would divest such rights, the developer may
262 request a determination from the state land planning agency. The
263 developer or the appropriate local government having
264 jurisdiction may request that the state land planning agency
265 determine whether the amount of development that remains to be
266 built in an approved development of regional impact meets the
267 criteria of subparagraph (15)(g)3.

268 (i) In response to an inquiry from a developer or the
269 appropriate local government having jurisdiction, the state land
270 planning agency may issue an informal determination in the form
271 of a clearance letter as to whether a development is required to
272 undergo development-of-regional-impact review or whether the

HB 683 CS

2006
CS

273 amount of development that remains to be built in an approved
274 development of regional impact meets the criteria of
275 subparagraph (15)(g)3. A clearance letter may be based solely on
276 the information provided by the developer, and the state land
277 planning agency is not required to conduct an investigation of
278 that information. If any material information provided by the
279 developer is incomplete or inaccurate, the clearance letter is
280 not binding upon the state land planning agency. A clearance
281 letter does not constitute final agency action.

282 (15) LOCAL GOVERNMENT DEVELOPMENT ORDER.--

283 (a) The appropriate local government shall render a
284 decision on the application within 30 days after the hearing
285 unless an extension is requested by the developer.

286 (b) When possible, local governments shall issue
287 development orders concurrently with any other local permits or
288 development approvals that may be applicable to the proposed
289 development.

290 (c) The development order shall include findings of fact
291 and conclusions of law consistent with subsections (13) and
292 (14). The development order:

293 1. Shall specify the monitoring procedures and the local
294 official responsible for assuring compliance by the developer
295 with the development order.

296 2. Shall establish compliance dates for the development
297 order, including a deadline for commencing physical development
298 and for compliance with conditions of approval or phasing
299 requirements, and shall include a buildout ~~termination~~ date that

HB 683 CS

2006
CS

300 reasonably reflects the time anticipated ~~required~~ to complete
301 the development.

302 3. Shall establish a date until which the local government
303 agrees that the approved development of regional impact shall
304 not be subject to downzoning, unit density reduction, or
305 intensity reduction, unless the local government can demonstrate
306 that substantial changes in the conditions underlying the
307 approval of the development order have occurred or the
308 development order was based on substantially inaccurate
309 information provided by the developer or that the change is
310 clearly established by local government to be essential to the
311 public health, safety, or welfare. The date established pursuant
312 to this subparagraph shall be no sooner than the buildout date
313 of the project.

314 4. Shall specify the requirements for the biennial report
315 designated under subsection (18), including the date of
316 submission, parties to whom the report is submitted, and
317 contents of the report, based upon the rules adopted by the
318 state land planning agency. Such rules shall specify the scope
319 of any additional local requirements that may be necessary for
320 the report.

321 5. May specify the types of changes to the development
322 which shall require submission for a substantial deviation
323 determination or a notice of proposed change under subsection
324 (19).

325 6. Shall include a legal description of the property.

326 (d) Conditions of a development order that require a
327 developer to contribute land for a public facility or construct,

HB 683 CS

2006
CS

expand, or pay for land acquisition or construction or expansion of a public facility, or portion thereof, shall meet the following criteria:

1. The need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.

2. Any contribution of funds, land, or public facilities required from the developer shall be comparable to the amount of funds, land, or public facilities that the state or the local government would reasonably expect to expend or provide, based on projected costs of comparable projects, to mitigate the impacts reasonably attributable to the proposed development.

3. Any funds or lands contributed must be expressly designated and used to mitigate impacts reasonably attributable to the proposed development.

4. Construction or expansion of a public facility by a nongovernmental developer as a condition of a development order to mitigate the impacts reasonably attributable to the proposed development is not subject to competitive bidding or competitive negotiation for selection of a contractor or design professional for any part of the construction or design ~~unless required by the local government that issues the development order.~~

(e)1. ~~Effective July 1, 1986,~~ A local government shall not include, as a development order condition for a development of regional impact, any requirement that a developer contribute or pay for land acquisition or construction or expansion of public facilities or portions thereof unless the local government has enacted a local ordinance which requires other development not

HB 683 CS

2006
CS

subject to this section to contribute its proportionate share of the funds, land, or public facilities necessary to accommodate any impacts having a rational nexus to the proposed development, and the need to construct new facilities or add to the present system of public facilities must be reasonably attributable to the proposed development.

2. A local government shall not approve a development of regional impact that does not make adequate provision for the public facilities needed to accommodate the impacts of the proposed development unless the local government includes in the development order a commitment by the local government to provide these facilities consistently with the development schedule approved in the development order; however, a local government's failure to meet the requirements of subparagraph 1. and this subparagraph shall not preclude the issuance of a development order where adequate provision is made by the developer for the public facilities needed to accommodate the impacts of the proposed development. Any funds or lands contributed by a developer must be expressly designated and used to accommodate impacts reasonably attributable to the proposed development.

3. The Department of Community Affairs and other state and regional agencies involved in the administration and implementation of this act shall cooperate and work with units of local government in preparing and adopting local impact fee and other contribution ordinances.

(f) Notice of the adoption of a development order or the subsequent amendments to an adopted development order shall be

HB 683 CS

2006
CS

recorded by the developer, in accordance with s. 28.222, with the clerk of the circuit court for each county in which the development is located. The notice shall include a legal description of the property covered by the order and shall state which unit of local government adopted the development order, the date of adoption, the date of adoption of any amendments to the development order, the location where the adopted order with any amendments may be examined, and that the development order constitutes a land development regulation applicable to the property. The recording of this notice shall not constitute a lien, cloud, or encumbrance on real property, or actual or constructive notice of any such lien, cloud, or encumbrance. This paragraph applies only to developments initially approved under this section after July 1, 1980.

(g) A local government shall not issue permits for development subsequent to the buildout ~~termination date or expiration~~ date contained in the development order unless:

1. The proposed development has been evaluated cumulatively with existing development under the substantial deviation provisions of subsection (19) subsequent to the termination or expiration date;

2. The proposed development is consistent with an abandonment of development order that has been issued in accordance with the provisions of subsection (26); or

3. The development of regional impact is essentially built out, in that all the mitigation requirements in the development order have been satisfied, all developers are in compliance with all applicable terms and conditions of the development order

HB 683 CS

2006
CS

412 except the buildout date, and the amount of proposed development
413 that remains to be built is less than 20 percent of any
414 applicable development-of-regional-impact threshold; or

415 4.3- The project has been determined to be an essentially
416 built-out development of regional impact through an agreement
417 executed by the developer, the state land planning agency, and
418 the local government, in accordance with s. 380.032, which will
419 establish the terms and conditions under which the development
420 may be continued. If the project is determined to be essentially
421 built out ~~built-out~~, development may proceed pursuant to the s.
422 380.032 agreement after the termination or expiration date
423 contained in the development order without further development-
424 of-regional-impact review subject to the local government
425 comprehensive plan and land development regulations or subject
426 to a modified development-of-regional-impact analysis. As used
427 in this paragraph, an "essentially built-out" development of
428 regional impact means:

429 a. The developers are ~~development is~~ in compliance with
430 all applicable terms and conditions of the development order
431 except the buildout ~~built-out~~ date; and

432 b.(I) The amount of development that remains to be built
433 is less than the substantial deviation threshold specified in
434 paragraph (19)(b) for each individual land use category, or, for
435 a multiuse development, the sum total of all unbuilt land uses
436 as a percentage of the applicable substantial deviation
437 threshold is equal to or less than 100 percent; or

438 (II) The state land planning agency and the local
439 government have agreed in writing that the amount of development

HB 683 CS

2006
CS

440 to be built does not create the likelihood of any additional
441 regional impact not previously reviewed.

442 (h) The single-family residential portions of a
443 development may be considered "essentially built out" if all of
444 the infrastructure and horizontal development have been
445 completed, at least 50 percent of the dwelling units have been
446 completed, and more than 80 percent of the lots have been
447 conveyed to third-party individual lot owners or to individual
448 builders who own no more than 40 lots at the time of the
449 determination.

450 (i) The mobile home park portions of a development may be
451 considered "essentially built out" if all the infrastructure and
452 horizontal development has been completed, and at least 50
453 percent of the lots are leased to individual mobile home owners.

454 (j) If the property is annexed by another local
455 jurisdiction, the annexing jurisdiction shall adopt a new
456 development order that incorporates all previous rights and
457 obligations specified in the prior development order.

458 (19) SUBSTANTIAL DEVIATIONS.--

459 (a) Any proposed change to a previously approved
460 development which creates a reasonable likelihood of additional
461 regional impact, or any type of regional impact created by the
462 change not previously reviewed by the regional planning agency,
463 shall constitute a substantial deviation and shall cause the
464 proposed change development to be subject to further
465 development-of-regional-impact review. There are a variety of
466 reasons why a developer may wish to propose changes to an
467 approved development of regional impact, including changed

Page 17 of 46

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hb0683-02-c2

HB 683 CS

2006
CS

market conditions. The procedures set forth in this subsection are for that purpose.

(b) Any proposed change to a previously approved development of regional impact or development order condition which, either individually or cumulatively with other changes, exceeds any of the following criteria shall constitute a substantial deviation and shall cause the development to be subject to further development-of-regional-impact review without the necessity for a finding of same by the local government:

1. An increase in the number of parking spaces at an attraction or recreational facility by 10 5 percent or 330 ~~300~~ spaces, whichever is greater, or an increase in the number of spectators that may be accommodated at such a facility by 10 5 percent or 1,100 ~~1,000~~ spectators, whichever is greater.

2. A new runway, a new terminal facility, a 25-percent lengthening of an existing runway, or a 25-percent increase in the number of gates of an existing terminal, but only if the increase adds at least three additional gates.

~~3. An increase in the number of hospital beds by 5 percent or 60 beds, whichever is greater.~~

~~3.4.~~ An increase in industrial development area by 10 5 percent or 35 ~~32~~ acres, whichever is greater.

~~4.5.~~ An increase in the average annual acreage mined by 10 5 percent or 11 ~~10~~ acres, whichever is greater, or an increase in the average daily water consumption by a mining operation by 10 5 percent or 330,000 ~~300,000~~ gallons, whichever is greater. An increase in the size of the mine by 10 5 percent or 825 ~~750~~ acres, whichever is less. An increase in the size of a heavy

HB 683 CS

2006
CS

496 mineral mine as defined in s. 378.403(7) will only constitute a
497 substantial deviation if the average annual acreage mined is
498 more than 550 ~~500~~ acres and consumes more than 3.3 ~~3~~-million
499 gallons of water per day.

500 5.6. An increase in land area for office development by 10
501 5 percent or an increase of gross floor area of office
502 development by 10 5 percent or 66,000 ~~60,000~~ gross square feet,
503 whichever is greater.

504 ~~7. An increase in the storage capacity for chemical or~~
505 ~~petroleum storage facilities by 5 percent, 20,000 barrels, or 7~~
506 ~~million pounds, whichever is greater.~~

507 ~~8. An increase of development at a waterport of wet~~
508 ~~storage for 20 watercraft, dry storage for 30 watercraft, or~~
509 ~~wet/dry storage for 60 watercraft in an area identified in the~~
510 ~~state marina siting plan as an appropriate site for additional~~
511 ~~waterport development or a 5 percent increase in watercraft~~
512 ~~storage capacity, whichever is greater.~~

513 6.9. An increase in the number of dwelling units by 10 5
514 percent or 55 ~~50~~ dwelling units, whichever is greater.

515 7. An increase in the number of dwelling units by 50
516 percent or 200 units, whichever is greater, provided that 15
517 percent of the increase in the number of dwelling units is
518 dedicated to the construction of workforce housing. For purposes
519 of this subparagraph, the term "workforce housing" means housing
520 that is affordable to a person who earns less than 150 percent
521 of the area median income.

522 8.10. An increase in commercial development by 55,000
523 ~~50,000~~ square feet of gross floor area or of parking spaces

HB 683 CS

2006
CS

524 provided for customers for 330 ~~300~~ cars or a 10-percent ~~5-~~
525 ~~percent~~ increase of either of these, whichever is greater.

526 9.11- An increase in hotel or motel rooms ~~facility units~~
527 by 10 ~~5~~ percent or 83 rooms ~~75 units~~, whichever is greater.

528 10.12- An increase in a recreational vehicle park area by
529 10 ~~5~~ percent or 110 ~~100~~ vehicle spaces, whichever is less.

530 11.13- A decrease in the area set aside for open space of
531 5 percent or 20 acres, whichever is less.

532 12.14- A proposed increase to an approved multiuse
533 development of regional impact where the sum of the increases of
534 each land use as a percentage of the applicable substantial
535 deviation criteria is equal to or exceeds 110 ~~100~~ percent. The
536 percentage of any decrease in the amount of open space shall be
537 treated as an increase for purposes of determining when 110 ~~100~~
538 percent has been reached or exceeded.

539 13.15- A 15-percent increase in the number of external
540 vehicle trips generated by the development above that which was
541 projected during the original development-of-regional-impact
542 review.

543 14.16- Any change which would result in development of any
544 area which was specifically set aside in the application for
545 development approval or in the development order for
546 preservation or special protection of endangered or threatened
547 plants or animals designated as endangered, threatened, or
548 species of special concern and their habitat, any species
549 protected by 16 U.S.C. s. 668a-668d, primary dunes, or
550 archaeological and historical sites designated as significant by
551 the Division of Historical Resources of the Department of State.

Page 20 of 46

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hb0683-02-c2

HB 683 CS

2006
CS

552 The ~~further~~ refinement of the boundaries and configuration of
553 such areas ~~by survey~~ shall be considered under sub-subparagraph
554 (e)2.j. ~~(e)5.b.~~

555
556 The substantial deviation numerical standards in subparagraphs
557 3., 5., 8., 9., and 12. ~~4., 6., 10., 14.,~~ excluding residential
558 uses, and in subparagraph 13. ~~15.,~~ are increased by 100 percent
559 for a project certified under s. 403.973 which creates jobs and
560 meets criteria established by the Office of Tourism, Trade, and
561 Economic Development as to its impact on an area's economy,
562 employment, and prevailing wage and skill levels. The
563 substantial deviation numerical standards in subparagraphs 3.,
564 5., 6., 7., 8., 9., 12., and 13. ~~4., 6., 9., 10., 11., and 14.~~
565 are increased by 50 percent for a project located wholly within
566 an urban infill and redevelopment area designated on the
567 applicable adopted local comprehensive plan future land use map
568 and not located within the coastal high hazard area.

569 (c) An extension of the date of buildout of a development,
570 or any phase thereof, by more than 7 ~~or more~~ years shall be
571 presumed to create a substantial deviation subject to further
572 development-of-regional-impact review. An extension of the date
573 of buildout, or any phase thereof, of more than 5 ~~or more~~
574 but less than 7 years shall be presumed not to create a
575 substantial deviation. The extension of the date of buildout of
576 an areawide development of regional impact by more than 5 years
577 but less than 10 years is presumed not to create a substantial
578 deviation. These presumptions may be rebutted by clear and
579 convincing evidence at the public hearing held by the local

HB 683 CS

2006
CS

580 government. An extension of 5 years or ~~less than 5 years~~ is not
581 a substantial deviation. For the purpose of calculating when a
582 buildout or, ~~phase, or termination~~ date has been exceeded, the
583 time shall be tolled during the pendency of administrative or
584 judicial proceedings relating to development permits. Any
585 extension of the buildout date of a project or a phase thereof
586 shall automatically extend the commencement date of the project,
587 the termination date of the development order, the expiration
588 date of the development of regional impact, and the phases
589 thereof if applicable by a like period of time.

590 (d) A change in the plan of development of an approved
591 development of regional impact resulting from requirements
592 imposed by the Department of Environmental Protection or any
593 water management district created by s. 373.069 or any of their
594 successor agencies or by any appropriate federal regulatory
595 agency shall be submitted to the local government pursuant to
596 this subsection. The change shall be presumed not to create a
597 substantial deviation subject to further development-of-
598 regional-impact review. The presumption may be rebutted by clear
599 and convincing evidence at the public hearing held by the local
600 government.

601 (e)1. Except for a development order rendered pursuant to
602 subsection (22) or subsection (25), a proposed change to a
603 development order that individually or cumulatively with any
604 previous change is less than any numerical criterion contained
605 in subparagraphs (b)1.-15. and does not exceed any other
606 criterion, or that involves an extension of the buildout date of
607 a development, or any phase thereof, of less than 5 years is not

HB 683 CS

2006
CS

608 subject to the public hearing requirements of subparagraph
609 (f)3., and is not subject to a determination pursuant to
610 subparagraph (f)5. Notice of the proposed change shall be made
611 to the regional planning council and the state land planning
612 agency. Such notice shall include a description of previous
613 individual changes made to the development, including changes
614 previously approved by the local government, and shall include
615 appropriate amendments to the development order.

616 2. The following changes, individually or cumulatively
617 with any previous changes, are not substantial deviations:

618 a. Changes in the name of the project, developer, owner,
619 or monitoring official.

620 b. Changes to a setback that do not affect noise buffers,
621 environmental protection or mitigation areas, or archaeological
622 or historical resources.

623 c. Changes to minimum lot sizes.

624 d. Changes in the configuration of internal roads that do
625 not affect external access points.

626 e. Changes to the building design or orientation that stay
627 approximately within the approved area designated for such
628 building and parking lot, and which do not affect historical
629 buildings designated as significant by the Division of
630 Historical Resources of the Department of State.

631 f. Changes to increase the acreage in the development,
632 provided that no development is proposed on the acreage to be
633 added.

634 g. Changes to eliminate an approved land use, provided
635 that there are no additional regional impacts.

HB 683 CS

2006
CS

h. Changes required to conform to permits approved by any federal, state, or regional permitting agency, provided that these changes do not create additional regional impacts.

i. Any renovation or redevelopment of development within a previously approved development of regional impact which does not change land use or increase density or intensity of use.

j. Changes that modify boundaries and configuration of areas described in subparagraph (b)14. due to science-based refinement of such areas by survey, by habitat evaluation, by other recognized assessment methodology, or by an environmental assessment. In order for changes to qualify under this subparagraph, the survey, habitat evaluation, or assessment must occur prior to the time a conservation easement protecting such lands is recorded and must not result in any net decrease in the total acreage of the lands specifically set aside for permanent preservation in the final development order.

~~k.j.~~ Any other change which the state land planning agency agrees in writing is similar in nature, impact, or character to the changes enumerated in sub-subparagraphs a.-j. ~~a.-i.~~ and which does not create the likelihood of any additional regional impact.

This subsection does not require the filing of a notice of proposed change but shall require an application to the local government to amend the development order in accordance with the local government's procedures for amendment of a development order. In accordance with the local government's procedures, including requirements for notice to the applicant and the

HB 683 CS

2006
CS

664 public, the local government shall either deny the application
665 for amendment or adopt an amendment to the development order
666 which approves the application with or without conditions.
667 Following adoption, the local government shall render to the
668 state land planning agency the amendment to the development
669 order. The state land planning agency may appeal, pursuant to s.
670 380.07(3), the amendment to the development order if the
671 amendment involves sub-subparagraph g., sub-subparagraph h.,
672 sub-subparagraph j., or sub-subparagraph k. and it believes the
673 change creates a reasonable likelihood of new or additional
674 regional impacts ~~a development order amendment for any change~~
675 ~~listed in sub-subparagraphs a. j. unless such issue is addressed~~
676 ~~either in the existing development order or in the application~~
677 ~~for development approval, but, in the case of the application,~~
678 ~~only if, and in the manner in which, the application is~~
679 ~~incorporated in the development order.~~

680 3. Except for the change authorized by sub-subparagraph
681 2.f., any addition of land not previously reviewed or any change
682 not specified in paragraph (b) or paragraph (c) shall be
683 presumed to create a substantial deviation. This presumption may
684 be rebutted by clear and convincing evidence.

685 4. Any submittal of a proposed change to a previously
686 approved development shall include a description of individual
687 changes previously made to the development, including changes
688 previously approved by the local government. The local
689 government shall consider the previous and current proposed
690 changes in deciding whether such changes cumulatively constitute

HB 683 CS

2006
CS

a substantial deviation requiring further development-of-regional-impact review.

5. The following changes to an approved development of regional impact shall be presumed to create a substantial deviation. Such presumption may be rebutted by clear and convincing evidence.

a. A change proposed for 15 percent or more of the acreage to a land use not previously approved in the development order. Changes of less than 15 percent shall be presumed not to create a substantial deviation.

~~b. Except for the types of uses listed in subparagraph (b)16., any change which would result in the development of any area which was specifically set aside in the application for development approval or in the development order for preservation, buffers, or special protection, including habitat for plant and animal species, archaeological and historical sites, dunes, and other special areas.~~

b.e. Notwithstanding any provision of paragraph (b) to the contrary, a proposed change consisting of simultaneous increases and decreases of at least two of the uses within an authorized multiuse development of regional impact which was originally approved with three or more uses specified in s. 380.0651(3)(c), (d), (f), and (g) and residential use.

(f)1. The state land planning agency shall establish by rule standard forms for submittal of proposed changes to a previously approved development of regional impact which may require further development-of-regional-impact review. At a minimum, the standard form shall require the developer to

HB 683 CS

2006
CS

provide the precise language that the developer proposes to delete or add as an amendment to the development order.

2. The developer shall submit, simultaneously, to the local government, the regional planning agency, and the state land planning agency the request for approval of a proposed change.

3. No sooner than 30 days but no later than 45 days after submittal by the developer to the local government, the state land planning agency, and the appropriate regional planning agency, the local government shall give 15 days' notice and schedule a public hearing to consider the change that the developer asserts does not create a substantial deviation. This public hearing shall be held within 60 ~~90~~ days after submittal of the proposed changes, unless that time is extended by the developer.

4. The appropriate regional planning agency or the state land planning agency shall review the proposed change and, no later than 45 days after submittal by the developer of the proposed change, unless that time is extended by the developer, and prior to the public hearing at which the proposed change is to be considered, shall advise the local government in writing whether it objects to the proposed change, shall specify the reasons for its objection, if any, and shall provide a copy to the developer.

5. At the public hearing, the local government shall determine whether the proposed change requires further development-of-regional-impact review. The provisions of paragraphs (a) and (e), the thresholds set forth in paragraph

HB 683 CS

2006
CS

747 (b), and the presumptions set forth in paragraphs (c) and (d)
748 and subparagraph (e)3. shall be applicable in determining
749 whether further development-of-regional-impact review is
750 required.

751 6. If the local government determines that the proposed
752 change does not require further development-of-regional-impact
753 review and is otherwise approved, or if the proposed change is
754 not subject to a hearing and determination pursuant to
755 subparagraphs 3. and 5. and is otherwise approved, the local
756 government shall issue an amendment to the development order
757 incorporating the approved change and conditions of approval
758 relating to the change. The decision of the local government to
759 approve, with or without conditions, or to deny the proposed
760 change that the developer asserts does not require further
761 review shall be subject to the appeal provisions of s. 380.07.
762 However, the state land planning agency may not appeal the local
763 government decision if it did not comply with subparagraph 4.
764 The state land planning agency may not appeal a change to a
765 development order made pursuant to subparagraph (e)1. or
766 subparagraph (e)2. for developments of regional impact approved
767 after January 1, 1980, unless the change would result in a
768 significant impact to a regionally significant archaeological,
769 historical, or natural resource not previously identified in the
770 original development-of-regional-impact review.

771 (g) If a proposed change requires further development-of-
772 regional-impact review pursuant to this section, the review
773 shall be conducted subject to the following additional
774 conditions:

HB 683 CS

2006
CS

1. The development-of-regional-impact review conducted by the appropriate regional planning agency shall address only those issues raised by the proposed change except as provided in subparagraph 2.

2. The regional planning agency shall consider, and the local government shall determine whether to approve, approve with conditions, or deny the proposed change as it relates to the entire development. If the local government determines that the proposed change, as it relates to the entire development, is unacceptable, the local government shall deny the change.

3. If the local government determines that the proposed change, ~~as it relates to the entire development,~~ should be approved, any new conditions in the amendment to the development order issued by the local government shall address only those issues raised by the proposed change and require mitigation only for the individual and cumulative impacts of the proposed change.

4. Development within the previously approved development of regional impact may continue, as approved, during the development-of-regional-impact review in those portions of the development which are not directly affected by the proposed change.

(h) When further development-of-regional-impact review is required because a substantial deviation has been determined or admitted by the developer, the amendment to the development order issued by the local government shall be consistent with the requirements of subsection (15) and shall be subject to the hearing and appeal provisions of s. 380.07. The state land

HB 683 CS

2006
CS

planning agency or the appropriate regional planning agency need not participate at the local hearing in order to appeal a local government development order issued pursuant to this paragraph.

(i) An increase in the number of residential dwelling units shall not constitute a substantial deviation and shall not be subject to development-of-regional-impact review for additional impacts provided that all the residential dwelling units are dedicated to workforce housing. For purposes of this paragraph, the term "workforce housing" means housing that is affordable to a person who earns less than 150 percent of the area median income.

(24) STATUTORY EXEMPTIONS.--

(a) Any proposed hospital ~~which has a designed capacity of not more than 100 beds~~ is exempt from the provisions of this section.

(b) Any proposed electrical transmission line or electrical power plant is exempt from the provisions of this section, ~~except any steam or solar electrical generating facility of less than 50 megawatts in capacity attached to a development of regional impact.~~

(c) Any proposed addition to an existing sports facility complex is exempt from the provisions of this section if the addition meets the following characteristics:

1. It would not operate concurrently with the scheduled hours of operation of the existing facility.

2. Its seating capacity would be no more than 75 percent of the capacity of the existing facility.

HB 683 CS

2006
CS

830 3. The sports facility complex property is owned by a
831 public body prior to July 1, 1983.

832
833 This exemption does not apply to any pari-mutuel facility.

834 (d) Any proposed addition or cumulative additions
835 subsequent to July 1, 1988, to an existing sports facility
836 complex owned by a state university is exempt if the increased
837 seating capacity of the complex is no more than 30 percent of
838 the capacity of the existing facility.

839 (e) Any addition of permanent seats or parking spaces for
840 an existing sports facility located on property owned by a
841 public body prior to July 1, 1973, is exempt from the provisions
842 of this section if future additions do not expand existing
843 permanent seating or parking capacity more than 15 percent
844 annually in excess of the prior year's capacity.

845 (f) Any increase in the seating capacity of an existing
846 sports facility having a permanent seating capacity of at least
847 50,000 spectators is exempt from the provisions of this section,
848 provided that such an increase does not increase permanent
849 seating capacity by more than 5 percent per year and not to
850 exceed a total of 10 percent in any 5-year period, and provided
851 that the sports facility notifies the appropriate local
852 government within which the facility is located of the increase
853 at least 6 months prior to the initial use of the increased
854 seating, in order to permit the appropriate local government to
855 develop a traffic management plan for the traffic generated by
856 the increase. Any traffic management plan shall be consistent

HB 683 CS

2006
CS

857 with the local comprehensive plan, the regional policy plan, and
858 the state comprehensive plan.

859 (g) Any expansion in the permanent seating capacity or
860 additional improved parking facilities of an existing sports
861 facility is exempt from the provisions of this section, if the
862 following conditions exist:

863 1.a. The sports facility had a permanent seating capacity
864 on January 1, 1991, of at least 41,000 spectator seats;

865 b. The sum of such expansions in permanent seating
866 capacity does not exceed a total of 10 percent in any 5-year
867 period and does not exceed a cumulative total of 20 percent for
868 any such expansions; or

869 c. The increase in additional improved parking facilities
870 is a one-time addition and does not exceed 3,500 parking spaces
871 serving the sports facility; and

872 2. The local government having jurisdiction of the sports
873 facility includes in the development order or development permit
874 approving such expansion under this paragraph a finding of fact
875 that the proposed expansion is consistent with the
876 transportation, water, sewer and stormwater drainage provisions
877 of the approved local comprehensive plan and local land
878 development regulations relating to those provisions.

879
880 Any owner or developer who intends to rely on this statutory
881 exemption shall provide to the department a copy of the local
882 government application for a development permit. Within 45 days
883 of receipt of the application, the department shall render to
884 the local government an advisory and nonbinding opinion, in

Page 32 of 46

CODING: Words stricken are deletions; words underlined are additions.

hb0683-02-c2

HB 683 CS

2006
CS

885 writing, stating whether, in the department's opinion, the
886 prescribed conditions exist for an exemption under this
887 paragraph. The local government shall render the development
888 order approving each such expansion to the department. The
889 owner, developer, or department may appeal the local government
890 development order pursuant to s. 380.07, within 45 days after
891 the order is rendered. The scope of review shall be limited to
892 the determination of whether the conditions prescribed in this
893 paragraph exist. If any sports facility expansion undergoes
894 development of regional impact review, all previous expansions
895 which were exempt under this paragraph shall be included in the
896 development of regional impact review.

897 (h) Expansion to port harbors, spoil disposal sites,
898 navigation channels, turning basins, harbor berths, and other
899 related inwater harbor facilities of ports listed in s.
900 403.021(9)(b), port transportation facilities and projects
901 listed in s. 311.07(3)(b), and intermodal transportation
902 facilities identified pursuant to s. 311.09(3) are exempt from
903 the provisions of this section when such expansions, projects,
904 or facilities are consistent with comprehensive master plans
905 that are in compliance with the provisions of s. 163.3178.

906 (i) Any proposed facility for the storage of any petroleum
907 product or any expansion of an existing facility is exempt from
908 the provisions of this section, ~~if the facility is consistent~~
909 ~~with a local comprehensive plan that is in compliance with s.~~
910 ~~163.3177 or is consistent with a comprehensive port master plan~~
911 ~~that is in compliance with s. 163.3178.~~

HB 683 CS

2006
CS

912 (j) Any renovation or redevelopment within the same land
913 parcel which does not change land use or increase density or
914 intensity of use.

915 (k)~~1.~~ Waterport and marina development, including dry
916 storage facilities, are exempt from the provisions of this
917 section Any waterport or marina development is exempt from the
918 provisions of this section if the relevant county or
919 municipality has adopted a boating facility siting plan or
920 policy which includes applicable criteria, considering such
921 factors as natural resources, manatee protection needs and
922 recreation and economic demands as generally outlined in the
923 Bureau of Protected Species Management Boat Facility Siting
924 Guide, dated August 2000, into the coastal management or land
925 use element of its comprehensive plan. The adoption of boating
926 facility siting plans or policies into the comprehensive plan is
927 exempt from the provisions of s. 163.3187(1). Any waterport or
928 marina development within the municipalities or counties with
929 boating facility siting plans or policies that meet the above
930 criteria, adopted prior to April 1, 2002, are exempt from the
931 provisions of this section, when their boating facility siting
932 plan or policy is adopted as part of the relevant local
933 government's comprehensive plan.

934 2. ~~Within 6 months of the effective date of this law, The~~
935 ~~Department of Community Affairs, in conjunction with the~~
936 ~~Department of Environmental Protection and the Florida Fish and~~
937 ~~Wildlife Conservation Commission, shall provide technical~~
938 ~~assistance and guidelines, including model plans, policies and~~

HB 683 CS

2006
CS

939 ~~criteria to local governments for the development of their~~
940 ~~siting plans.~~

941 (1) Any proposed development within an urban service
942 boundary established under s. 163.3177(14) is exempt from the
943 provisions of this section if the local government having
944 jurisdiction over the area where the development is proposed has
945 adopted the urban service boundary, and has entered into a
946 binding agreement with ~~adjacent~~ jurisdictions that would be
947 impacted and with the Department of Transportation regarding the
948 mitigation of impacts on state and regional transportation
949 facilities, and has adopted a proportionate share methodology
950 pursuant to s. 163.3180(16).

951 (m) Any proposed development within a rural land
952 stewardship area created under s. 163.3177(11)(d) is exempt from
953 the provisions of this section if the local government that has
954 adopted the rural land stewardship area has entered into a
955 binding agreement with jurisdictions that would be impacted and
956 the Department of Transportation regarding the mitigation of
957 impacts on state and regional transportation facilities, and has
958 adopted a proportionate share methodology pursuant to s.
959 163.3180(16).

960 (n) Any proposed development or redevelopment within an
961 area designated as an urban infill and redevelopment area under
962 s. 163.2517 is exempt from ~~the provisions of~~ this section if the
963 local government has entered into a binding agreement with
964 jurisdictions that would be impacted and the Department of
965 Transportation regarding the mitigation of impacts on state and

HB 683 CS

2006
CS

966 regional transportation facilities, and has adopted a
967 proportionate share methodology pursuant to s. 163.3180(16).

968 (o) The establishment, relocation, or expansion of any
969 military installation as defined in s. 163.3175, is exempt from
970 this section.

971 (p) Any self-storage warehousing that does not allow
972 retail or other services is exempt from this section.

973 (q) Any proposed nursing home or assisted living facility
974 is exempt from this section.

975 (r) Any development identified in an airport master plan
976 and adopted into the comprehensive plan pursuant to s.
977 163.3177(6)(k) is exempt from this section.

978 (s) Any development identified in a campus master plan and
979 adopted pursuant to s. 1013.30 is exempt from this section.

980 (t) Any development in a specific area plan which is
981 prepared pursuant to s. 163.3245 and adopted into the
982 comprehensive plan is exempt from this section.

983
984 If a use is exempt from review as a development of regional
985 impact under paragraphs (a)-(t) but will be part of a larger
986 project that is subject to review as a development of regional
987 impact, the impact of the exempt use must be included in the
988 review of the larger project.

989 (28) PARTIAL STATUTORY EXEMPTIONS.--

990 (a) If the binding agreement referenced under paragraph
991 (24)(1) for urban service boundaries is not entered into within
992 12 months after establishment of the urban service boundary, the

HB 683 CS

2006
CS

development-of-regional-impact review for projects within the urban service boundary must address transportation impacts only.

(b) If the binding agreement referenced under paragraph (24) (m) for rural land stewardship areas is not entered into within 12 months after the designation of a rural land stewardship area, the development-of-regional-impact review for projects within the rural land stewardship area must address transportation impacts only.

(c) If the binding agreement referenced under paragraph (24) (n) for designated urban infill and redevelopment areas is not entered into within 12 months after the designation of the area or July 1, 2007, whichever occurs later, the development-of-regional-impact review for projects within the urban infill and redevelopment area must address transportation impacts only.

(d) A local government that does not wish to enter into a binding agreement or that is unable to agree on the terms of the agreement referenced under paragraph (24) (l), paragraph (24) (m), or paragraph (24) (n) shall provide written notification to the state land planning agency of the decision to not enter into a binding agreement or the failure to enter into a binding agreement within the 12-month period referenced in paragraphs (a), (b) and (c). Following the notification of the state land planning agency, development-of-regional-impact review for projects within an urban service boundary under paragraph (24) (l), a rural land stewardship area under paragraph (24) (m), or an urban infill and redevelopment area under paragraph (24) (n), must address transportation impacts only.

HB 683 CS

2006
CS

1020 Section 7. Paragraphs (d) and (e) of subsection (3) of
1021 section 380.0651, Florida Statutes, are amended, paragraphs (f)
1022 through (j) are redesignated as (e) through (i), respectively,
1023 and a new paragraph (j) is added to that subsection, to read:

1024 380.0651 Statewide guidelines and standards.--

1025 (3) The following statewide guidelines and standards shall
1026 be applied in the manner described in s. 380.06(2) to determine
1027 whether the following developments shall be required to undergo
1028 development-of-regional-impact review:

1029 (d) Office development.--Any proposed office building or
1030 park operated under common ownership, development plan, or
1031 management that:

1032 1. Encompasses 300,000 or more square feet of gross floor
1033 area; or

1034 2. Encompasses more than 600,000 square feet of gross
1035 floor area in a county with a population greater than 500,000
1036 and only in a geographic area specifically designated as highly
1037 suitable for increased threshold intensity in the approved local
1038 comprehensive plan and in the strategic regional policy plan.

1039 ~~(e) Port facilities. The proposed construction of any~~
1040 ~~waterport or marina is required to undergo development-of-~~
1041 ~~regional-impact review, except one designed for:~~

1042 ~~1.a. The wet storage or mooring of fewer than 150~~
1043 ~~watercraft used exclusively for sport, pleasure, or commercial~~
1044 ~~fishing, or~~

1045 ~~b. The dry storage of fewer than 200 watercraft used~~
1046 ~~exclusively for sport, pleasure, or commercial fishing, or~~

HB 683 CS

2006
CS

1047 ~~e. The wet or dry storage or mooring of fewer than 150~~
1048 ~~watercraft on or adjacent to an inland freshwater lake except~~
1049 ~~Lake Okeechobee or any lake which has been designated an~~
1050 ~~Outstanding Florida Water, or~~

1051 ~~d. The wet or dry storage or mooring of fewer than 50~~
1052 ~~watercraft of 40 feet in length or less of any type or purpose.~~
1053 ~~The exceptions to this paragraph's requirements for development~~
1054 ~~of regional impact review shall not apply to any waterport or~~
1055 ~~marina facility located within or which serves physical~~
1056 ~~development located within a coastal barrier resource unit on an~~
1057 ~~unbridged barrier island designated pursuant to 16 U.S.C. s.~~
1058 ~~3501.~~

1059
1060 ~~In addition to the foregoing, for projects for which no~~
1061 ~~environmental resource permit or sovereign submerged land lease~~
1062 ~~is required, the Department of Environmental Protection must~~
1063 ~~determine in writing that a proposed marina in excess of 10~~
1064 ~~slips or storage spaces or a combination of the two is located~~
1065 ~~so that it will not adversely impact Outstanding Florida Waters~~
1066 ~~or Class II waters and will not contribute boat traffic in a~~
1067 ~~manner that will have an adverse impact on an area known to be,~~
1068 ~~or likely to be, frequented by manatees. If the Department of~~
1069 ~~Environmental Protection fails to issue its determination within~~
1070 ~~45 days of receipt of a formal written request, it has waived~~
1071 ~~its authority to make such determination. The Department of~~
1072 ~~Environmental Protection determination shall constitute final~~
1073 ~~agency action pursuant to chapter 120.~~

HB 683 CS

2006
CS

~~2. The dry storage of fewer than 300 watercraft used exclusively for sport, pleasure, or commercial fishing at a marina constructed and in operation prior to July 1, 1985.~~

~~3. Any proposed marina development with both wet and dry mooring or storage used exclusively for sport, pleasure, or commercial fishing, where the sum of percentages of the applicable wet and dry mooring or storage thresholds equals 100 percent. This threshold is in addition to, and does not preclude, a development from being required to undergo development of regional impact review under sub-subparagraphs 1.a. and b. and subparagraph 2.~~

(j) Workforce housing.--The applicable guidelines for residential development and the residential component for multiuse development shall be increased by 50 percent where the developer demonstrates that at least 15 percent of the residential dwelling units will be dedicated to workforce housing. For purposes of this paragraph, the term "workforce housing" means housing that is affordable to a person who earns less than 150 percent of the area median income.

Section 8. Section 380.07, Florida Statutes, is amended to read:

380.07 Florida Land and Water Adjudicatory Commission.--

(1) There is hereby created the Florida Land and Water Adjudicatory Commission, which shall consist of the Administration Commission. The commission may adopt rules necessary to ensure compliance with the area of critical state concern program and the requirements for developments of regional impact as set forth in this chapter.

HB 683 CS

2006
CS

1102 (2) Whenever any local government issues any development
1103 order in any area of critical state concern, or in regard to any
1104 development of regional impact, copies of such orders as
1105 prescribed by rule by the state land planning agency shall be
1106 transmitted to the state land planning agency, the regional
1107 planning agency, and the owner or developer of the property
1108 affected by such order. The state land planning agency shall
1109 adopt rules describing development order rendition and
1110 effectiveness in designated areas of critical state concern.
1111 Within 45 days after the order is rendered, the owner, the
1112 developer, or the state land planning agency may appeal the
1113 order to the Florida Land and Water Adjudicatory Commission by
1114 filing a petition alleging that the development order is not
1115 consistent with the provisions of this part ~~notice of appeal~~
1116 ~~with the commission~~. The appropriate regional planning agency by
1117 vote at a regularly scheduled meeting may recommend that the
1118 state land planning agency undertake an appeal of a development-
1119 of-regional-impact development order. Upon the request of an
1120 appropriate regional planning council, affected local
1121 government, or any citizen, the state land planning agency shall
1122 consider whether to appeal the order and shall respond to the
1123 request within the 45-day appeal period. ~~Any appeal taken by a~~
1124 ~~regional planning agency between March 1, 1993, and the~~
1125 ~~effective date of this section may only be continued if the~~
1126 ~~state land planning agency has also filed an appeal. Any appeal~~
1127 ~~initiated by a regional planning agency on or before March 1,~~
1128 ~~1993, shall continue until completion of the appeal process and~~

HB 683 CS

2006
CS

1129 ~~any subsequent appellate review, as if the regional planning~~
1130 ~~agency were authorized to initiate the appeal.~~

1131 (3) Notwithstanding any other provision of law, an appeal
1132 of a development order by the state land planning agency under
1133 this section may include consistency of the development order
1134 with the local comprehensive plan. However, if a development
1135 order relating to a development of regional impact has been
1136 challenged in a proceeding under s. 163.3215 and a party to the
1137 proceeding serves notice to the state land planning agency of
1138 the pending proceeding under s. 163.3215, the state land
1139 planning agency shall:

1140 (a) Raise its consistency issues by intervening as a full
1141 party in the pending proceeding under s. 163.3215 within 30 days
1142 after service of the notice; and

1143 (b) Dismiss the consistency issues from the development
1144 order appeal.

1145 (4) The appellant shall furnish a copy of the petition to
1146 the opposing party, as the case may be, and to the local
1147 government that issued the order. The filing of the petition
1148 stays the effectiveness of the order until after the completion
1149 of the appeal process.

1150 (5)-(3) The 45-day appeal period for a development of
1151 regional impact within the jurisdiction of more than one local
1152 government shall not commence until after all the local
1153 governments having jurisdiction over the proposed development of
1154 regional impact have rendered their development orders. The
1155 appellant shall furnish a copy of the notice of appeal to the
1156 opposing party, as the case may be, and to the local government

Page 42 of 46

CODING: Words stricken are deletions; words underlined are additions.

hb0683-02-c2

HB 683 CS

2006
CS

1157 which issued the order. The filing of the notice of appeal shall
1158 stay the effectiveness of the order until after the completion
1159 of the appeal process.

1160 (6)~~(4)~~ Prior to issuing an order, the Florida Land and
1161 Water Adjudicatory Commission shall hold a hearing pursuant to
1162 the provisions of chapter 120. The commission shall encourage
1163 the submission of appeals on the record made below in cases in
1164 which the development order was issued after a full and complete
1165 hearing before the local government or an agency thereof.

1166 (7)~~(5)~~ The Florida Land and Water Adjudicatory Commission
1167 shall issue a decision granting or denying permission to develop
1168 pursuant to the standards of this chapter and may attach
1169 conditions and restrictions to its decisions.

1170 ~~(6) If an appeal is filed with respect to any issues~~
1171 ~~within the scope of a permitting program authorized by chapter~~
1172 ~~161, chapter 373, or chapter 403 and for which a permit or~~
1173 ~~conceptual review approval has been obtained prior to the~~
1174 ~~issuance of a development order, any such issue shall be~~
1175 ~~specifically identified in the notice of appeal which is filed~~
1176 ~~pursuant to this section, together with other issues which~~
1177 ~~constitute grounds for the appeal. The appeal may proceed with~~
1178 ~~respect to issues within the scope of permitting programs for~~
1179 ~~which a permit or conceptual review approval has been obtained~~
1180 ~~prior to the issuance of a development order only after the~~
1181 ~~commission determines by majority vote at a regularly scheduled~~
1182 ~~commission meeting that statewide or regional interests may be~~
1183 ~~adversely affected by the development. In making this~~
1184 ~~determination, there shall be a rebuttable presumption that~~

Page 43 of 46

CODING: Words stricken are deletions; words underlined are additions.

hb0683-02-c2

HB 683 CS

2006
CS

1185 ~~statewide and regional interests relating to issues within the~~
1186 ~~scope of the permitting programs for which a permit or~~
1187 ~~conceptual approval has been obtained are not adversely~~
1188 ~~affected.~~

1189 Section 9. Section 380.115, Florida Statutes, is amended
1190 to read:

1191 380.115 Vested rights and duties; effect of size
1192 reduction, changes in guidelines and standards ~~chs. 2002-20 and~~
1193 ~~2002-296.--~~

1194 (1) A change in a development-of-regional-impact guideline
1195 and standard does not abridge ~~Nothing contained in this act~~
1196 ~~abridges~~ or modify ~~modifies~~ any vested or other right or any
1197 duty or obligation pursuant to any development order or
1198 agreement that is applicable to a development of regional impact
1199 ~~on the effective date of this act.~~ A development that has
1200 received a development-of-regional-impact development order
1201 pursuant to s. 380.06, but is no longer required to undergo
1202 development-of-regional-impact review by operation of a change
1203 in the guidelines and standards or has reduced its size below
1204 the thresholds in s. 380.0651 ~~of this act,~~ shall be governed by
1205 the following procedures:

1206 (a) The development shall continue to be governed by the
1207 development-of-regional-impact development order and may be
1208 completed in reliance upon and pursuant to the development order
1209 unless the developer or landowner has followed the procedures
1210 for rescission in paragraph (b). Any proposed changes to those
1211 developments which continue to be governed by a development
1212 order shall be approved pursuant to s. 380.06(19) as it existed

HB 683 CS

2006
CS

1213 prior to a change in the development-of-regional-impact
1214 guidelines and standards except that all percentage criteria
1215 shall be doubled and all other criteria shall be increased by 10
1216 percent. The development-of-regional-impact development order
1217 may be enforced by the local government as provided by ss.
1218 380.06(17) and 380.11.

1219 (b) If requested by the developer or landowner, the
1220 development-of-regional-impact development order shall ~~may~~ be
1221 rescinded by the local government having jurisdiction upon a
1222 showing that all required mitigation related to the amount of
1223 development that existed on the date of rescission has been
1224 completed ~~abandoned pursuant to the process in s. 380.06(26).~~

1225 (2) A development with an application for development
1226 approval pending, ~~and determined sufficient pursuant to s.~~
1227 380.06 ~~s. 380.06(10)~~, on the effective date of a change to the
1228 guidelines and standards this act, or a notification of proposed
1229 change pending on the effective date of a change to the
1230 guidelines and standards this act, may elect to continue such
1231 review pursuant to s. 380.06. At the conclusion of the pending
1232 review, including any appeals pursuant to s. 380.07, the
1233 resulting development order shall be governed by the provisions
1234 of subsection (1).

1235 (3) A landowner that has filed an application for a
1236 development-of-regional-impact review prior to the adoption of
1237 an optional sector plan pursuant to s. 163.3245 may elect to
1238 have the application reviewed pursuant to s. 380.06,
1239 comprehensive plan provisions in force prior to adoption of the

HB 683 CS

2006
CS

1240 sector plan, and any requested comprehensive plan amendments
1241 that accompany the application.

1242 Section 10. Paragraph (i) of subsection (2) of section
1243 403.813, Florida Statutes, is amended to read:

1244 403.813 Permits issued at district centers; exceptions.--

1245 (2) A permit is not required under this chapter, chapter
1246 373, chapter 61-691, Laws of Florida, or chapter 25214 or
1247 chapter 25270, 1949, Laws of Florida, for activities associated
1248 with the following types of projects; however, except as
1249 otherwise provided in this subsection, nothing in this
1250 subsection relieves an applicant from any requirement to obtain
1251 permission to use or occupy lands owned by the Board of Trustees
1252 of the Internal Improvement Trust Fund or any water management
1253 district in its governmental or proprietary capacity or from
1254 complying with applicable local pollution control programs
1255 authorized under this chapter or other requirements of county
1256 and municipal governments:

1257 (i) The construction of private docks of 1,000 square feet
1258 or less of over-water surface area and seawalls in artificially
1259 created waterways where such construction will not violate
1260 existing water quality standards, impede navigation, or affect
1261 flood control. This exemption does not apply to the construction
1262 of vertical seawalls in estuaries or lagoons unless the proposed
1263 construction is within an existing manmade canal where the
1264 shoreline is currently occupied in whole or part by vertical
1265 seawalls.

1266 Section 11. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 905 CS Transportation Concurrency Management
SPONSOR(S): Goodlette and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1862

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	8 Y, 0 N	Grayson	Hamby
2) Transportation & Economic Development Appropriations Committee	19 Y, 1 N, w/CS	McAuliffe	Gordon
3) State Infrastructure Council		Grayson <i>AD</i>	Havlicak <i>RH</i>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 905 w/CS provides local governments that have adopted concurrency management systems prior to July 1, 2005, which are stricter than those provided in law are not required to issue a building permit, or its functional equivalent, when that permit would result in traffic generation until adequate transportation facilities are in place as required by that local government's adopted concurrency management system.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill allows local government to be more restrictive in implementing transportation facilities concurrency. If local government chooses to be more restrictive than the state standard, then such action could be considered to either limit government by decentralizing the implementation standard or increase government by further restricting when development may occur.

Safeguard individual liberty – The bill allows local government to be more restrictive in implementing transportation facilities concurrency. Thus, if local government chooses a more restrictive implementation, then such action could be considered to decrease or prohibit a private organization (developer) in the conduct of its affairs.

B. EFFECT OF PROPOSED CHANGES:

Background

Transportation Concurrency - CS/CS/CS SB 360 (2005)

The 2005 Legislature enacted CS/CS/CS SB 360 relating to infrastructure funding and planning (ch. 2005-290, L.O.F., the "2005 Act"). Among other revisions to existing law, the 2005 Act provides for stricter facilities concurrency than existed in prior law. Concurrency is a growth management concept intended to ensure that the necessary public facilities and services are available concurrent with the impacts of development. One of the types of facilities to which concurrency applies under the 2005 Act is transportation facilities. Specifically, the 2005 Act provided that *transportation facilities must be in place or under actual construction within 3 years from the local government's approval of a building permit or its functional equivalent that results in traffic generation*. To carry out transportation concurrency, local governments must define what constitutes an adequate level of service and measure whether the service needs of a new development exceed existing capacity and any scheduled improvements in the capital improvements element of the local government's comprehensive plan.

Transportation Concurrency Exception Areas

The law provides that under limited circumstances, the requirement for transportation facilities concurrency conflicts with other public policy goals and leads to the discouragement of urban infill development and redevelopment. In such instances, existing law allows a local government to designate a transportation concurrency exception area (TCEA) to provide for an exception to the concurrency requirements. This results in an increase in the number of people and goods that need to move around within the TCEA and means that their mobility must be addressed in ways other than the traditional provision of roads. When a local government chooses to designate a TCEA, they must follow certain requirements in the law. Among those requirements is the adoption of a comprehensive plan amendment that supports the designated area in the ways outlined below.

- Implements strategies to support and fund mobility within the TCEA, including alternative modes of transportation.
- Demonstrates how strategies will support the purpose of the exception area and how mobility within the exception area will be provided.
- Addresses urban design; appropriate land use mixes, including intensity and density; and network connectivity plans needed to promote urban infill, redevelopment, or downtown revitalization.
- Be accompanied by data and analysis justifying the size of the area.

Effect of Proposed Changes

HB 905 w/CS provides local government's that have adopted concurrency management systems prior to July 1, 2005, which are stricter than those provided in law are not required to issue a building permit, or its functional equivalent, when that permit would result in traffic generation until adequate transportation facilities are in place as required by that local governments adopted concurrency management system.

C. SECTION DIRECTORY:

Section 1 – Amends s. 163.3180(2)(c), F.S., relating to transportation concurrency.

Section 2 – Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have an impact on state revenues.

2. Expenditures:

The bill does not appear to have an impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill does not appear to have an impact on local revenues.

2. Expenditures:

The bill may increase the demand for local expenditures to ensure that transportation facilities are funded and in place in tandem with development demand.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an impact on the private sector by limiting when development may proceed in relation to the availability of adequate transportation facilities.

D. FISCAL COMMENTS:

Not applicable.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

N/A.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

At the April 4, 2006 meeting, the Transportation & Economic Development Appropriations Committee approved HB 905 with one strike-all amendment. The amendment provides local governments that have adopted concurrency management systems prior to July 1, 2005, which are stricter than those provided in law are not required to issue a building permit, or its functional equivalent, when that permit would result in traffic generation until adequate transportation facilities are in place as required by that local government's adopted concurrency management system.

HB 905

2006
CS

CHAMBER ACTION

The Transportation & Economic Development Appropriations
Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to transportation concurrency management;
amending s. 163.3180, F.S.; providing an exception to
certain in-place or under-actual-construction requirements
for transportation facilities serving new developments for
certain stricter concurrency requirements by local
governments; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) of subsection (2) of section
163.3180, Florida Statutes, is amended to read:

163.3180 Concurrency.--

(2)

(c) Consistent with the public welfare, and except as
otherwise provided in this section, transportation facilities
needed to serve new development shall be in place or under
actual construction within 3 years after the local government

HB 905

2006
CS

24 | approves a building permit or its functional equivalent that
25 | results in traffic generation. Nothing in this section prohibits
26 | a local government that has adopted a stricter concurrency
27 | management system prior to the enactment of chapter 2005-290,
28 | Laws of Florida, that provides for a shorter time period than 3
29 | years from using a stricter concurrency management system and
30 | requirements under which a local government need not issue a
31 | building permit or its functional equivalent under any
32 | circumstances that result in traffic generation until adequate
33 | transportation facilities are in place pursuant to the local
34 | government's adopted concurrency management system.

35 | Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 989 CS

Motor Fuel Taxes

SPONSOR(S): Detert

TIED BILLS:

IDEN./SIM. BILLS: SB 1932

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	15 Y, 0 N	Pugh	Miller
2) Finance & Tax Committee	6 Y, 0 N, w/CS	Noriega	Diez-Arguelles
3) State Infrastructure Council		Pugh (BJP)	Havlicak RN
4)			
5)			

SUMMARY ANALYSIS

This bill provides a refund of motor fuel taxes paid on fuel for vehicles and equipment used exclusively for commercial aviation on commercial airport properties.

The refunds are conditioned on the requirement that no amount of the fuel was used in any vehicle or equipment operated on state highways.

The Revenue Estimating Conference has estimated that this bill will have a negative fiscal impact of \$0.2 million to state government and an insignificant negative fiscal impact to local governments in both FY 2006-07 and FY 2007-08. Most of the fiscal impact will affect the State Transportation Trust Fund.

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Ensure Lower Taxes: This bill provides a refund of motor fuel taxes paid on fuel for vehicles and equipment used exclusively for commercial aviation on commercial airport properties.

B. EFFECT OF PROPOSED CHANGES:

Background

Florida collects several different types of motor fuel taxes, most of which are used to finance state highway and other transportation projects. Motor fuel taxes are expected to generate more than \$2.2 billion in revenues in fiscal year 2005-06.¹

Section 206.41, F.S., lists the major motor fuel taxes, their uses, and their distributions. This section also authorizes refunds of certain motor fuel taxes to persons who purchase fuel for use in vehicles and equipment used exclusively on farm property, who purchase fuel for commercial fishing vessels and equipment never operated on public highways, and who purchase fuel for vessels and equipment used exclusively in aquaculture operations that is never operated on public highways. These refunds totaled \$326,000 in FY 2003-04.²

The three motor fuel taxes which are refunded are: the motor fuel sales tax, the State Comprehensive Enhanced Transportation System Tax (SCETS), and the local-option fuel tax.

The Department of Revenue (DOR) has long-established programs for collecting and, where authorized, refunding fuel tax revenues. Applications for refunds must be accompanied by a completed application, and applicants are directed to retain all invoices and receipts of fuel purchases in the event that DOR decides to audit or inspect these records.

Effect of Proposed Changes

This bill amends s. 206.41(4)(c), F.S., to provide that persons who own vehicles and equipment used exclusively for commercial aviation purposes, and which are never used on public highways, are eligible for motor fuel tax refunds. The type of vehicles and equipment that are envisioned as qualifying for the refund include the vehicles known as "tugs" that deliver luggage, concessions, and other products to airplanes, as well trucks that never leave the airport property, generators, landscaping equipment used exclusively on airport property, and safety and rescue equipment.

The bill defines motor fuel used for "commercial aviation purposes" as that which is used in the operation of aviation ground support vehicles or equipment, and which is not used in any vehicle or equipment driven or operated upon the public highways of this state.

DOR estimates that 101 companies are eligible for the refunds.

C. SECTION DIRECTORY:

Section 1. Amends s. 206.41(4), F.S., by providing a refund for any motor fuel used for commercial aviation purposes; provides a definition for "commercial aviation purposes."

¹ 2005 Florida Tax Handbook, page 86. On file with the House Transportation Committee.

² Ibid, page 91.

Section 2. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on state government:

	<u>2006-07</u>	<u>2007-08</u>
General Revenue	(Insignificant)	(Insignificant)
State Trust	(0.2m)	(0.2m)
Total	<u>(0.2m)</u>	<u>(0.2m)</u>

The applicable trust fund in this case is the State Transportation Trust Fund.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference has estimated that this bill will have the following negative fiscal impact on local governments:

	<u>2006-07</u>	<u>2007-08</u>
Total Local Impact	(Insignificant)	(Insignificant)

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Private companies doing business on airport property, and which purchase fuel for vehicles that never leave airport property, will be eligible for motor fuel tax refunds.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision appears to apply because the bill reduces the authority that counties have to raise revenues through local option fuel taxes; however, the amount of the reduction is insignificant and an exemption applies. Accordingly, the bill does not require a two-thirds vote of the membership of each house.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

It appears that DOR has sufficient existing rule-making authority to implement the provisions of this bill. The agency has indicated that it may provide the refund application and filing procedures by rule.

C. DRAFTING ISSUES OR OTHER COMMENTS:

In its analysis of this bill, DOR suggests the following clarifying language for the term "commercial aviation purposes":

"Motor fuel used in the operation of aviation ground support vehicles or equipment that is used exclusively at an airport, and no part of which fuel is used in any vehicle or equipment which has been authorized by the Department of Highway Safety and Motor Vehicles to be driven or operated upon the public highways of this state."

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 4, 2006, the Finance & Tax Committee adopted one amendment to the bill. This amendment removed the retroactive refund provision for the last three calendar years for initial applicants.

The bill was then reported favorably with a committee substitute, and this analysis reflects the changes contained in the amendment adopted by the Finance & Tax Committee.

HB 989

2006
CS

CHAMBER ACTION

The Finance & Tax Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to motor fuel taxes; amending s. 206.41, F.S.; providing for a refund of motor fuel taxes paid on motor fuel used for certain commercial aviation purposes; providing a definition; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (c) of subsection (4) of section 206.41, Florida Statutes, is amended to read:

206.41 State taxes imposed on motor fuel.--

(4)

(c)1. Any person who uses any motor fuel for agricultural, aquacultural, ~~or commercial fishing~~, or commercial aviation purposes on which fuel the tax imposed by paragraph (1)(e), paragraph (1)(f), or paragraph (1)(g) has been paid is entitled to a refund of such tax.

2. For the purposes of this paragraph, "agricultural and aquacultural purposes" means motor fuel used in any tractor,

HB 989

2006
CS

24 vehicle, or other farm equipment which is used exclusively on a
25 farm or for processing farm products on the farm, and no part of
26 which fuel is used in any vehicle or equipment driven or
27 operated upon the public highways of this state. This
28 restriction does not apply to the movement of a farm vehicle or
29 farm equipment between farms. The transporting of bees by water
30 and the operating of equipment used in the apiary of a beekeeper
31 shall be also deemed an agricultural purpose.

32 3. For the purposes of this paragraph, "commercial fishing
33 and aquacultural purposes" means motor fuel used in the
34 operation of boats, vessels, or equipment used exclusively for
35 the taking of fish, crayfish, oysters, shrimp, or sponges from
36 salt or fresh waters under the jurisdiction of the state for
37 resale to the public, and no part of which fuel is used in any
38 vehicle or equipment driven or operated upon the highways of
39 this state; however, the term may in no way be construed to
40 include fuel used for sport or pleasure fishing.

41 4. For the purposes of this paragraph, the term
42 "commercial aviation purposes" means motor fuel used in the
43 operation of aviation ground support vehicles or equipment, and
44 no part of which fuel is used in any vehicle or equipment driven
45 or operated upon the public highways of this state.

46 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1465 CS

Speed Limit Enforcement on State Roads

SPONSOR(S): Altman

TIED BILLS:

IDEN./SIM. BILLS: CS/CS/SB 2020

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Transportation Committee</u>	<u>15 Y, 2 N, w/CS</u>	<u>Thompson</u>	<u>Miller</u>
2) <u>Transportation & Economic Development Appropriations Committee</u>	<u>16 Y, 0 N, w/CS</u>	<u>McAuliffe</u>	<u>Gordon</u>
3) <u>State Infrastructure Council</u>		<u>Thompson J.T.</u>	<u>Havlicak</u> RH
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1465 w/CS requires the Florida Department of Transportation (FDOT) to establish a pilot project of "enhanced penalty zones" in Brevard, Duval, and St. Johns Counties where there is an increased risk of crashes or damage caused by crashes. FDOT would be authorized to establish speed limits within the zones. Current fines would be increased by \$50 for any person convicted of exceeding the speed limit in an enhanced penalty zone. FDOT, the Florida Department of Education and the Department of Highway Safety and Motor Vehicles (DHSMV) are directed to jointly study and identify by July 1, 2007, improvements to reduce Florida's traffic fatalities by one-third.

The fiscal impact incurred by FDOT, the Department of Education and DHSMV is indeterminate, but should not be significant. To the extent that the bill results in additional citations being issued, additional traffic penalties would be collected. These additional funds would primarily benefit certain nursing homes and trauma centers.

Provides an effective date of July 1, 2006.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1465d.SIC.doc

DATE: 4/14/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility—To the extent that enhanced penalty zones will allow for more effective enforcement of the speed limit, the bill tends to increase personal accountability of drivers for failure to comply with the law.

B. EFFECT OF PROPOSED CHANGES:

Background

According to the National Highway Traffic Safety Administration (NHTSA), a crash is considered speed-related if the driver was charged with a speed-related offense or if an officer indicated racing, driving too fast for conditions, or exceeding the posted speed limit was a contributing factor in the crash. Based on DHSMV statistics, excessive speed was a contributing factor in 13.44 percent of all fatal crashes in 2004 making it the fourth overall contributing cause after careless driving, failure to yield right-of-way, and alcohol.

Section 316.183, F.S., requires all persons driving a vehicle on a highway to travel at no greater speed than is "reasonable and prudent" under the present conditions and as necessary to avoid actual and potential hazards, and to control the vehicle's speed "as may be necessary to avoid colliding with any person, vehicle, or other conveyance or object." The maximum speed limit on all streets or highways is 30 m.p.h. in business or residence districts and 55 m.p.h. at all other locations. However, counties and municipalities may set a maximum speed limit of 20 or 25 m.p.h. on local roads if an investigation determines this is reasonable. The minimum speed limit on all Interstate highways is 40 m.p.h., except when the posted maximum speed limit is 70 m.p.h., the minimum speed limit is 50 m.p.h.

Section 316.187, F.S., provides FDOT the authority to establish reasonable and safe speed limits on any highway outside of a municipality or upon any state road within or outside of a municipality. The maximum allowable speed for limited access highways is 70 m.p.h. The maximum allowable speed limit on any other rural, four or more lane highway divided by a median strip is 65 miles per hour. The FDOT may set maximum and minimum speed limits for other roads under its authority as it deems safe and advisable, up to a maximum of 60 m.p.h.

Section 316.0745, F.S., directs FDOT to adopt a uniform system of traffic control devices, including regulatory speed signs, for use on the streets and highways of the state.

Section 318.18, F.S., relating to penalties for speeding, provides for moving violations involving unlawful speed, the fines are as follows:

For speed exceeding the limit by:	Fine:
1-5 m.p.h.	Warning
6-9 m.p.h.	\$ 25
10-14 m.p.h.	\$100
15-19 m.p.h.	\$125
20-29 m.p.h.	\$150
30 m.p.h. and above	\$250

In posted construction zones, the fine for excessive speed is doubled if the violation occurs when construction workers are present or immediately adjacent to the roadway under construction. Revenue collected from fines is distributed between the state and local governments.

Speeding violations typically result in assessment of three points against the violator's driver's license, unless the infraction or offense is among those considered as more serious. For example, speeding in excess of 15 mph over the posted limit requires an assessment of four points, and speeding resulting in a crash requires an assessment of 6 points. Section 322.27, F.S., sets out the points system for traffic violations.

Effect of Proposed Changes

HB 1465 w/CS creates s. 316.1893, F.S., establishing the Legislature's intent to maximize public safety and prevent vehicular fatalities by prioritizing the enforcement of speeding laws on the segments of the state's highways in Brevard, Duval, and St. Johns Counties that have the most dangerous incidence of fatalities. The bill provides for a pilot project which requires FDOT to establish enhanced penalty zones on state highways where there is a high incidence of fatal crashes by July 1, 2007, and grants FDOT authority to set maximum and minimum speed limits within the pilot project enhanced penalty zones. The bill also directs the FDOT to adopt a uniform system of traffic control devices for use in conjunction with enhanced penalty zones.

The bill also directs the DHSMV to annually publish the date, time, and number of citations issued both in and outside enhanced penalty zones in the pilot project counties, and to make available statistical information based on the traffic citations issued inside the enhanced penalty zones.

HB 1465 w/CS directs FDOT, the Department of Education and DHSMV to jointly conduct a study of highway safety and transportation issues to identify measures to reduce highway traffic fatalities by one-third of the 2005 traffic fatality statistic. Results of the study must be presented to Governor, President of the Senate, and the Speaker of the House of Representatives by July 1, 2007.

The bill amends s. 318.18, F.S., to increase fines for persons cited for exceeding the speed limit in an enhanced penalty zone by \$50. The fines will be assessed as follows:

For speed exceeding the limit by:	Fine:	Enhanced Penalty Zone Fine:	Posted Construction Zone Fine:
1-5 m.p.h.	Warning	\$50	Warning
6-9 m.p.h.	\$ 25	\$75	\$50
10-14 m.p.h.	\$100	\$150	\$200
15-19 m.p.h.	\$125	\$175	\$250
20-29 m.p.h.	\$150	\$200	\$300
30 m.p.h. and above	\$250	\$300	\$500

The bill also amends s. 318.21, F.S., to provide for the allocation of 50 percent of the funds received from the \$50 fine imposed by the bill to be appropriated to the Agency for Health Care Administration to provide an enhanced Medicaid payment to nursing homes that serve Medicaid recipients with brain and spinal cord injuries. The bill provides the remaining 50 percent of the funds will be remitted to the Department of Revenue and deposited into the Department of Health Administrative Trust Fund to provide financial support to certified trauma centers, within the county limits of the pilot program. These funds are to be allocated as follows:

- 50 percent are to be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services; and
- 50 percent are to be allocated among all Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the Department of Health Trauma Registry.

The bill amends s. 318.21, F.S., to correct cross references relating to the distribution and monthly payment of civil penalties by county courts. The bill reenacts certain provisions of ss. 318.14, 318.15, 318.21, 402.40, and 985.406, F.S. for the purpose of incorporating the amendment made by this bill to s. 318.18, F.S.

C. SECTION DIRECTORY:

Section 1. Creates s. 316.1893, F.S., relating to establishment of enhanced penalty zones.

Section 2. Directs the DHSMV, DOT and Department of Education to conduct a study of highway safety and transportation issues and report to the Governor and the Legislature no later than July 1, 2007.

Section 3. Amends s. 318.18, F.S., provides penalties for a violation of posted speed in an enhanced penalty zone.

Section 4. Amends s. 318.21, F.S., to correct cross-references to conform changes made by the act, and providing for the allocation of the funds received from the enhanced fine.

Section 5. Reenacting s. 318.14(2), (5), and (9), F.S., for the purpose of incorporating the amendment made by this bill to section 318.18, F.S.

Section 6. Reenacting s. 318.15(1) (a) and (2), F.S., for the purpose of incorporating the amendment made by this bill to section 318.18, F.S.

Section 7. Reenacting s. 318.21(7), F.S., for the purpose of incorporating the amendment made by this bill to section 318.18, F.S.

Section 8. Reenacting s. 402.40(4) (b), F.S., for the purpose of incorporating the amendment made by this bill to section 318.18, F.S., and

Section 9. Reenacting s. 985.406(4) (b), F.S., for the purpose of incorporating the amendment made by this bill to section 318.18, F.S.

Section 10. Providing the bill will take effect July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section, below.

2. Expenditures:

See FISCAL COMMENTS section, below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See FISCAL COMMENTS section, below.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See FISCAL COMMENTS section, below.

D. FISCAL COMMENTS:

Establishing "enhanced penalty zones" may result in the issuance of an increased number of citations, and the assessment of additional traffic penalties and court costs within pilot project counties. However, because it is impossible to forecast how many additional violations will occur and be cited, the fiscal impact on state and local governments is unknown. Also, signage and enforcement efforts could have a deterrent effect on drivers who speed, thereby reducing the number of speeding citations issued.

To the extent that the bill results in additional citations being issued, additional traffic penalties would be collected. These additional funds would primarily benefit certain nursing homes and trauma centers in the pilot projects counties.

To the extent that the bill could prevent vehicular fatalities by prioritizing enforcement on segments of highways that have a high incidence of fatalities, crash-related injuries and deaths could be reduced thereby decreasing associated medical and insurance costs.

The fiscal impact to the FDOT relating to establishing enhanced penalty zones in the three pilot project counties is unknown due to the indeterminate number of zones to be designated, however it is not expected to be significant.

The fiscal impact to the FDOT, Department of Education, and DHSMV to jointly study and identify improvements to reduce Florida's traffic fatalities by one-third is unknown, but likely insignificant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not require any grant or exercise of rule-making authority to implement its provisions.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 28, 2006 the Transportation Committee amended HB 1465 to provide for the allocation of 50 percent of the moneys received from the enhanced fine imposed by the bill to be remitted to the Department of Revenue and deposited into the Department of Health Administrative Trust Fund to provide financial support to certified trauma centers.

The committee then voted 15-2 to report the bill favorably with committee substitute.

At the April 11, 2006 meeting, the Transportation & Economic Development Appropriations Committee approved HB 1465 w/CS with three amendments. The first amendment narrowed the requirement for FDOT to establish enhanced penalty zones on state highways throughout the state, to a pilot project in only Brevard, Duval and St. Johns Counties. The second amendment provided speed limit signs in construction zones must include notification that the fines are double the normal speeding fine, and restores the provision in current law that fines are doubled only if construction personnel are present. The third amendment clarified that 50 percent of the funds received from fines must provide an enhanced Medicaid payment to nursing homes that serve Medicaid recipients with brain and spinal cord injuries.

CHAMBER ACTION

1 The Transportation & Economic Development Appropriations
2 Committee recommends the following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to speed limit enforcement on state roads;
8 creating s. 316.1893, F.S.; providing legislative intent;
9 creating a pilot program for establishment by the
10 Department of Transportation of enhanced penalty zones on
11 state roads in certain counties; providing for future
12 review and repeal of the pilot program; authorizing the
13 department to set speed limits within enhanced penalty
14 zones; directing the department to adopt a uniform system
15 of traffic control devices to be used within the zones;
16 prohibiting operation of a vehicle at a speed greater than
17 that posted in the enhanced penalty zone; directing the
18 Department of Highway Safety and Motor Vehicles to
19 tabulate citations issued within enhanced penalty zones
20 and make available certain information; directing the
21 Department of Transportation, the Department of Highway
22 Safety and Motor Vehicles, and the Department of Education
23 to conduct a study and report to the Governor and the

Page 1 of 11

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hb1465-02-c2

HB 1465 CS

2006
CS

Legislature for certain purposes; amending s. 318.18, F.S.; specifying criteria for posting in a construction zone; providing penalties for violation of posted speed in an enhanced penalty zone; amending s. 318.21, F.S.; correcting cross-references to conform to changes made by the act; providing for disposition of fines collected; reenacting ss. 318.14(2), (5), and (9), 318.15(1)(a) and (2), 318.21(7), 402.40(4)(b), and 985.406(4)(b), F.S., relating to noncriminal traffic infraction procedures, failure to comply with civil penalty or to appear, disposition of civil penalties by county courts, child welfare training, and juvenile justice training academies, respectively, for the purpose of incorporating the amendment made to s. 318.18, F.S., in references thereto; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 316.1893, Florida Statutes, is created to read:

316.1893 Establishment of enhanced penalty zones; designation.--

(1) It is the intent of the Legislature to prevent vehicular fatalities by prioritizing enforcement on segments of highways that have a high incidence of speed-related crashes. Enforcement shall also be prioritized during the times that speed-related crashes most often occur. The enforcement of these zones shall be in a way that maximizes public safety.

HB 1465 CS

2006
CS

52 (2) No later than July 1, 2007, the Department of
53 Transportation shall identify enhanced penalty zones on state
54 roads in Brevard, Duval, and St. Johns Counties as a pilot
55 program in an effort to reduce speed-related crashes on state
56 roads. This pilot program shall stand repealed July 1, 2009,
57 unless reviewed and saved from repeal through reenactment by the
58 Legislature.

59 (3) The Department of Transportation, pursuant to the
60 authority granted under s. 316.187, is authorized to set such
61 maximum and minimum speed limits for travel within enhanced
62 penalty zones as it deems safe and advisable.

63 (4) The Department of Transportation shall adopt a uniform
64 system of traffic control devices for use in conjunction with
65 enhanced penalty zones pursuant to the authority granted under
66 s. 316.0745.

67 (5) A person may not drive a vehicle on a roadway
68 designated as an enhanced penalty zone at a speed greater than
69 that posted in the enhanced penalty zone in accordance with this
70 section. A person who violates the speed limit within a legally
71 posted enhanced penalty zone established under this section
72 commits a moving violation, punishable as provided in chapter
73 318.

74 (6) The Department of Highway Safety and Motor Vehicles
75 shall annually publish the date, time, and number of citations
76 issued both in and outside enhanced penalty zones and shall make
77 available statistical information based thereon as to the number
78 and circumstances of traffic citations inside an enhanced
79 penalty zone.

HB 1465 CS

2006
CS

80 Section 2. The Department of Transportation, the
81 Department of Highway Safety and Motor Vehicles, and the
82 Department of Education shall jointly conduct a study of highway
83 safety and transportation issues as they relate to public
84 safety, including, but not limited to, engineering, enforcement,
85 and policy, to identify measurable improvements to reduce
86 highway traffic fatalities by one-third of the 2005 traffic
87 death statistics. The results of the study shall be presented to
88 the Governor, the President of the Senate, and the Speaker of
89 the House of Representatives no later than July 1, 2007, for a
90 public hearing and development of legislative recommendations.

91 Section 3. Paragraph (d) of subsection (3) of section
92 318.18, Florida Statutes, is amended, paragraphs (e) and (f) of
93 that subsection are redesignated as paragraphs (f) and (g),
94 respectively, and a new paragraph (e) is added to that
95 subsection, to read:

96 318.18 Amount of civil penalties.--The penalties required
97 for a noncriminal disposition pursuant to s. 318.14 are as
98 follows:

99 (3)

100 (d) A person cited for exceeding the speed limit in a
101 posted construction zone, which posting must include
102 notification of the speed limit and the doubling of fines, shall
103 pay a fine double the amount listed in paragraph (b). The fine
104 shall be doubled for construction zone violations only if
105 construction personnel are present or operating equipment on the
106 road or immediately adjacent to the road under construction.

HB 1465 CS

2006
CS

(e) A person cited for exceeding the speed limit in an enhanced penalty zone shall pay a fine amount of \$50 plus the amount listed in paragraph (b). Notwithstanding paragraph (b), a person cited for exceeding the speed limit by up to 5 m.p.h. in a legally posted enhanced penalty zone shall pay a fine amount of \$50.

Section 4. Subsections (4) and (5) of section 318.21, Florida Statutes, are amended, and subsection (15) is added to that section, to read:

318.21 Disposition of civil penalties by county courts.--All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(4) Of the additional fine assessed under s. 318.18(3) ~~(f)~~ ~~(e)~~ for a violation of s. 316.1301, 40 percent must be remitted to the Department of Revenue for deposit in the Grants and Donations Trust Fund of the Division of Blind Services of the Department of Education, and 60 percent must be distributed pursuant to subsections (1) and (2).

(5) Of the additional fine assessed under s. 318.18(3) ~~(f)~~ ~~(e)~~ for a violation of s. 316.1303, 60 percent must be remitted to the Department of Revenue for deposit in the endowment fund for the Florida Endowment Foundation for Vocational Rehabilitation, and 40 percent must be distributed pursuant to subsections (1) and (2) of this section.

(15) Of the additional fine assessed under s. 318.18(3) (e) for a violation of s. 316.1893, 50 percent of the moneys received from the fines shall be appropriated to the Agency for

HB 1465 CS

2006
CS

Health Care Administration as general revenue to provide an enhanced Medicaid payment to nursing homes that serve Medicaid recipients with brain and spinal cord injuries. The remaining 50 percent of the moneys received from the enhanced fine imposed under s. 318.18(3)(e) shall be remitted to the Department of Revenue and deposited into the Department of Health Administrative Trust Fund to provide financial support to certified trauma centers in Brevard, Duval, and St. Johns Counties to ensure the availability and accessibility of trauma services. Funds deposited into the Administrative Trust Fund under this subsection shall be allocated as follows:

(a) Fifty percent shall be allocated equally among all Level I, Level II, and pediatric trauma centers in recognition of readiness costs for maintaining trauma services.

(b) Fifty percent shall be allocated among Level I, Level II, and pediatric trauma centers based on each center's relative volume of trauma cases as reported in the Department of Health Trauma Registry.

Section 5. For the purpose of incorporating the amendment made by this act to section 318.18, Florida Statutes, in references thereto, subsections (2), (5), and (9) of section 318.14, Florida Statutes, are reenacted to read:

318.14 Noncriminal traffic infractions; exception; procedures.--

(2) Except as provided in s. 316.1001(2), any person cited for an infraction under this section must sign and accept a citation indicating a promise to appear. The officer may indicate on the traffic citation the time and location of the

HB 1465 CS

2006
CS

163 scheduled hearing and must indicate the applicable civil penalty
164 established in s. 318.18.

165 (5) Any person electing to appear before the designated
166 official or who is required so to appear shall be deemed to have
167 waived his or her right to the civil penalty provisions of s.
168 318.18. The official, after a hearing, shall make a
169 determination as to whether an infraction has been committed. If
170 the commission of an infraction has been proven, the official
171 may impose a civil penalty not to exceed \$500, except that in
172 cases involving unlawful speed in a school zone or involving
173 unlawful speed in a construction zone, the civil penalty may not
174 exceed \$1,000; or require attendance at a driver improvement
175 school, or both. If the person is required to appear before the
176 designated official pursuant to s. 318.19(1) and is found to
177 have committed the infraction, the designated official shall
178 impose a civil penalty of \$1,000 in addition to any other
179 penalties and the person's driver's license shall be suspended
180 for 6 months. If the person is required to appear before the
181 designated official pursuant to s. 318.19(2) and is found to
182 have committed the infraction, the designated official shall
183 impose a civil penalty of \$500 in addition to any other
184 penalties and the person's driver's license shall be suspended
185 for 3 months. If the official determines that no infraction has
186 been committed, no costs or penalties shall be imposed and any
187 costs or penalties that have been paid shall be returned. Moneys
188 received from the mandatory civil penalties imposed pursuant to
189 this subsection upon persons required to appear before a
190 designated official pursuant to s. 318.19(1) or (2) shall be

Page 7 of 11

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hb1465-02-c2

HB 1465 CS

2006
CS

191 remitted to the Department of Revenue and deposited into the
192 Department of Health Administrative Trust Fund to provide
193 financial support to certified trauma centers to assure the
194 availability and accessibility of trauma services throughout the
195 state. Funds deposited into the Administrative Trust Fund under
196 this section shall be allocated as follows:

197 (a) Fifty percent shall be allocated equally among all
198 Level I, Level II, and pediatric trauma centers in recognition
199 of readiness costs for maintaining trauma services.

200 (b) Fifty percent shall be allocated among Level I, Level
201 II, and pediatric trauma centers based on each center's relative
202 volume of trauma cases as reported in the Department of Health
203 Trauma Registry.

204 (9) Any person who does not hold a commercial driver's
205 license and who is cited for an infraction under this section
206 other than a violation of s. 320.0605, s. 320.07(3)(a) or (b),
207 s. 322.065, s. 322.15(1), s. 322.61, or s. 322.62 may, in lieu
208 of a court appearance, elect to attend in the location of his or
209 her choice within this state a basic driver improvement course
210 approved by the Department of Highway Safety and Motor Vehicles.
211 In such a case, adjudication must be withheld; points, as
212 provided by s. 322.27, may not be assessed; and the civil
213 penalty that is imposed by s. 318.18(3) must be reduced by 18
214 percent; however, a person may not make an election under this
215 subsection if the person has made an election under this
216 subsection in the preceding 12 months. A person may make no more
217 than five elections under this subsection. The requirement for
218 community service under s. 318.18(8) is not waived by a plea of

HB 1465 CS

2006
CS

219 nolo contendere or by the withholding of adjudication of guilt
220 by a court.

221 Section 6. For the purpose of incorporating the amendment
222 made by this act to section 318.18, Florida Statutes, in
223 references thereto, paragraph (a) of subsection (1) and
224 subsection (2) of section 318.15, Florida Statutes, are
225 reenacted to read:

226 318.15 Failure to comply with civil penalty or to appear;
227 penalty.--

228 (1)(a) If a person fails to comply with the civil
229 penalties provided in s. 318.18 within the time period specified
230 in s. 318.14(4), fails to attend driver improvement school, or
231 fails to appear at a scheduled hearing, the clerk of the court
232 shall notify the Division of Driver Licenses of the Department
233 of Highway Safety and Motor Vehicles of such failure within 10
234 days after such failure. Upon receipt of such notice, the
235 department shall immediately issue an order suspending the
236 driver's license and privilege to drive of such person effective
237 20 days after the date the order of suspension is mailed in
238 accordance with s. 322.251(1), (2), and (6). Any such suspension
239 of the driving privilege which has not been reinstated,
240 including a similar suspension imposed outside Florida, shall
241 remain on the records of the department for a period of 7 years
242 from the date imposed and shall be removed from the records
243 after the expiration of 7 years from the date it is imposed.

244 (2) After suspension of the driver's license and privilege
245 to drive of a person under subsection (1), the license and
246 privilege may not be reinstated until the person complies with

HB 1465 CS

2006
CS

247 all obligations and penalties imposed on him or her under s.
248 318.18 and presents to a driver license office a certificate of
249 compliance issued by the court, together with a nonrefundable
250 service charge of up to \$47.50 imposed under s. 322.29, or
251 presents a certificate of compliance and pays the aforementioned
252 service charge of up to \$47.50 to the clerk of the court or tax
253 collector clearing such suspension. Of the charge collected by
254 the clerk of the court or the tax collector, \$10 shall be
255 remitted to the Department of Revenue to be deposited into the
256 Highway Safety Operating Trust Fund. Such person shall also be
257 in compliance with requirements of chapter 322 prior to
258 reinstatement.

259 Section 7. For the purpose of incorporating the amendment
260 made by this act to section 318.18, Florida Statutes, in a
261 reference thereto, subsection (7) of section 318.21, Florida
262 Statutes, is reenacted to read:

263 318.21 Disposition of civil penalties by county
264 courts.--All civil penalties received by a county court pursuant
265 to the provisions of this chapter shall be distributed and paid
266 monthly as follows:

267 (7) For fines assessed under s. 318.18(3) for unlawful
268 speed, the following amounts must be remitted to the Department
269 of Revenue for deposit in the Nongame Wildlife Trust Fund:

270		
271	For speed exceeding the limit by:	Fine:
272	1-5 m.p.h.	\$.00
273	6-9 m.p.h.	\$.25
274	10-14 m.p.h.	\$ 3.00

HB 1465 CS

2006
CS

275	15-19 m.p.h.	\$ 4.00
276	20-29 m.p.h.	\$ 5.00
277	30 m.p.h. and above.	\$10.00

278

279 The remaining amount must be distributed pursuant to subsections
280 (1) and (2).

281 Section 8. For the purpose of incorporating the amendment
282 made by this act to section 318.18, Florida Statutes, in a
283 reference thereto, paragraph (b) of subsection (4) of section
284 402.40, Florida Statutes, is reenacted to read:

285 402.40 Child welfare training.--

286 (4) CHILD WELFARE TRAINING TRUST FUND.--

287 (b) One dollar from every noncriminal traffic infraction
288 collected pursuant to s. 318.14(10)(b) or s. 318.18 shall be
289 deposited into the Child Welfare Training Trust Fund.

290 Section 9. For the purpose of incorporating the amendment
291 made by this act to section 318.18, Florida Statutes, in a
292 reference thereto, paragraph (b) of subsection (4) of section
293 985.406, Florida Statutes, is reenacted to read:

294 985.406 Juvenile justice training academies established;
295 Juvenile Justice Standards and Training Commission created;
296 Juvenile Justice Training Trust Fund created.--

297 (4) JUVENILE JUSTICE TRAINING TRUST FUND.--

298 (b) One dollar from every noncriminal traffic infraction
299 collected pursuant to ss. 318.14(10)(b) and 318.18 shall be
300 deposited into the Juvenile Justice Training Trust Fund.

301 Section 10. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1489 W/ CS
SPONSOR(S): Waters and others
TIED BILLS:

State's Aerospace Industry
IDEN./SIM. BILLS: SB 2580

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Spaceport & Technology Committee</u>	<u>6 Y, 1 N, w/CS</u>	<u>Whittier</u>	<u>Saliba</u>
2) <u>Fiscal Council</u>	<u>23 Y, 0 N, w/CS</u>	<u>Gordon</u>	<u>Kelly</u>
3) <u>State Infrastructure Council</u>		<u>Whittier</u> <i>SW</i>	<u>Havlicak</u> <i>RH</i>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

On June 10, 2005, Governor Bush created the Commission on the Future of Space and Aeronautics in Florida (commission) by Executive Order No. 05-120. The commission was created to "assess and make recommendations on how to strengthen Florida's role as a leader in space and aeronautics and to maximize the economic development and job creation opportunities throughout the state." The commission released their final report in January 2006 with 18 recommendations to improve the future of the aerospace industry in Florida. HB 1489 w/CS contains some of these recommendations.

The bill repeals the Florida Space Research Institute (FSRI) and the Florida Aerospace Finance Corporation (FAFC), as well as their boards. The Florida Space Authority (FSA) is designated as Space Florida. Several responsibilities of the FSRI and FAFC are retained as those of Space Florida and others are eliminated and many existing FSA powers and duties are revised. The bill repeals the Spaceport Management Council.

The bill creates Space Florida as a public corporation, body politic, and subdivision of the state. Space Florida is directed to promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development and education programs. It is also directed to coordinate with appropriate federal, state, and local entities, and other interested parties. It directs Space Florida to create a marketing campaign.

Space Florida is directed to do the following: 1) Seek federal support to upgrade the infrastructure and technologies at current state and federal launch sites; 2) Promote and facilitate launch activity by assisting commercial launch operators with completing documentation and authorization requirements from federal agencies; and 3) Pursue the development of additional commercial spaceports in partnership with local and federal government and private entities.

The bill directs the Department of Education to establish the Florida Center for Mathematics and Science Education Research at a state university and instructs Space Florida to collaborate with universities and other public or private entities to develop a proposal for a Center of Excellence for Aerospace that will foster and promote the research necessary to develop commercially promising, advanced, and innovative science and technology and transfer those discoveries to the commercial sector.

The bill increases the sales and use tax exemptions on machinery and equipment for space and defense firms from 25 percent to a full exemption. This is estimated to have an annualized negative impact of \$2.8 million on the state General Revenue Fund in 2006. The bill appropriates \$43 million nonrecurring from the General Revenue Fund and \$7 million recurring from the General Revenue Fund.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill redesignates the Florida Space Authority as Space Florida and repeals the other two statutory space entities, as well as their boards: Florida Space Research Institute and the Florida Aerospace Finance Corporation. Some responsibilities of the latter two entities are retained as those of Space Florida and others are eliminated.

Ensure Lower Taxes: The bill increases the sales and use tax exemptions on machinery and equipment for space and defense firms from 25 percent to a full exemption.

B. EFFECT OF PROPOSED CHANGES:

Background

Governor's Commission on the Future of Space and Aeronautics in Florida

On June 10, 2005, Governor Bush created the Commission on the Future of Space and Aeronautics in Florida (commission) by Executive Order No. 05-120.¹ The commission was created to "assess and make recommendations on how to strengthen Florida's role as a leader in space and aeronautics to maximize the economic development and job creation opportunities throughout the state." The commission was composed of 16 space industry specialists, economists, and state personnel who met eight times to fulfill this directive. The commission released their final report in January 2006. The recommendations were as follows:

Talent

- 1) Integrate space and aeronautics industry needs into the State's cluster-based workforce development programs.
- 2) Ensure that space industry talent currently involved in the Space Shuttle program is retained after 2010.
- 3) Establish a Center for Mathematics and Science Education Research to enhance K-12 mathematics and science instruction quality.
- 4) Improve K-12 mathematics and science teacher availability through a greater emphasis on teacher recruitment.
- 5) Expand enrollment in, completions of, and retention of graduates from post-secondary degree programs in mathematics, science, and engineering, with emphasis on aerospace fields.
- 6) Provide hands-on opportunities for students to experience and learn about the aerospace industry.
- 7) Increase general awareness of aerospace activities.
- 8) Create a center of excellence with focus on space and aeronautics research and technology.

Economic Diversification

- 9) Position Florida to assemble, test, check out, launch, maintain, and refurbish the Crew Exploration Vehicle.
- 10) Reaffirm space and aeronautics as a statewide target industry with Enterprise Florida as the lead business development agency.
- 11) Expand the tools available for recruitment of space and aeronautics businesses.

¹ Available at http://www.myflorida.com/myflorida/government/governorinitiatives/space_commission/05-120.html.

- 12) Provide targeted support and venture capital for aerospace technology businesses that are created in Florida.

Space Launch Environment

- 13) Support federal efforts to renew and upgrade the infrastructure and technologies at the Cape Canaveral Spaceport and Eastern Range to support the nation's Vision, new military programs, and commercial growth.
- 14) Improve highway, rail, and waterway connections to the Cape Canaveral Spaceport.
- 15) Advocate for enhanced federal procedures and customer service for commercial launches.
- 16) Plan and develop a commercial spaceport targeted initially at horizontal launches and located separately from the federal lands at the Cape.

Management

- 17) Consolidate Florida's existing space entities into a new organization, Space Florida.
- 18) Provide dedicated funding to support innovative education programs or other space initiatives.²

State Space Entities in Florida

There are three statutory space entities in Florida: The Florida Space Authority (FSA), the Florida Space Research Institute (FSRI), and the Florida Aerospace Finance Corporation (FAFC). Each space entity is governed by a board with appointed members. Each board is made up of a combination of public and private sector representatives intended to bring industry expertise to the issues. The FSA executive director serves as a board member on both the FSRI and FAFC boards. Enterprise Florida, Inc., serves on the FSRI and FAFC boards, however, not on the FSA board. Additionally, the Enterprise Florida, Inc., board is not specifically required to maintain space representation.³ Enterprise Florida, Inc., sponsors two stakeholder groups with a relationship to aerospace: the Florida Aviation Aerospace Alliance and the Florida Defense Alliance.

Florida Space Authority

In 1989, the Legislature created the Spaceport Florida Authority Act which established the Spaceport Florida Authority. In 2002, the Legislature renamed it the Florida Space Authority.⁴ Originally conceived as a space transportation authority, Chapter 331, F.S., empowered FSA to perform nearly every function required to develop and operate a spaceport.⁵

Section 331.302(1), F.S., provides legislative intent that the FSA:

- Provide a unified direction for space-related economic growth and educational development to do the following:
 - Ensure a stable and dynamic economic climate;
 - Attract and maintain space-related businesses suitable to the state; and
 - Further the coordination and development of Florida's economy.

Section 331.302(3), F.S., further provides the FSA with the following purposes, functions, and responsibilities:

² *Governor's Commission on the Future of Space and Aeronautics in Florida Final Report*, January 2006, p. 4-1.

³ See s. 288.901, F.S.

⁴ On November 20, 2001, the Spaceport Florida Authority's Board of Supervisors voted to change the authority's name to reflect a shift from the authority's mission of primarily launch facilitation to the comprehensive planning and implementation of all phases of space business and economic development, including research and development. The name change of the authority was amended into statutes during the 2002 legislative session. See House of Representatives Staff Analysis for HB 1557, February 24, 2002, pp. 2-3.

⁵ Available at www.floridaspaceauthority.com.

- Develop a strategy for, and implement the acceleration of, space-related economic growth and educational development within the state;
- Provide projects in the state which will develop and improve the entrepreneurial atmosphere;
- Provide coordination among space businesses, Florida universities, space tourism and the Spaceport Florida launch centers; and
- Provide activities designed to stimulate the development of space commerce.⁶

In accordance with s. 331.308, F.S., the FSA Board of Supervisors (board) currently is composed of eight regular members that are appointed by the Governor, a state senator ex officio nonvoting member, a state representative ex officio nonvoting member, and the Lt. Governor, who is chair of the board. All regular members are subject to confirmation by the Senate. The board members must have experience in the aerospace or commercial space industry or in finance, or have other significant relevant experience. Further, one member must represent organized labor interests, one must represent minority interests, and four must represent the space industry.

Florida Space Research Institute

In 1999, the legislature created the Florida Space Research Institute. Originally recommended in a 1988 Space Commission report,⁷ FSRI was created to expand and diversify the state's involvement in space research and technology development. In accordance with s. 331.368(1), F.S., FSRI is to serve as an industry-driven center for research, leveraging the state's resources in a collaborative effort to support Florida's space industry and its expansion, diversification, and transition to commercialization.⁸

On December 15th of each year, FSRI is to report its annual activities and accomplishments to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Commissioner of Education. Further, FSRI is to include the following in its report:

- Provide recommendations regarding actions the state should take to enhance the development of space-related businesses, including:
 - Future research activities;
 - The development of capital and technology assistance to new and expanding industries;
 - The removal of regulatory impediments;
 - The establishment of business development incentives; and
 - The initiation of education and training programs to ensure a skilled workforce.⁹

Florida Aerospace Finance Corporation

In 1999, the legislature also created the Florida Commercial Space Financing Corporation and, in 2002, the legislature renamed it the Florida Aerospace Finance Corporation. As provided in s. 331.407(1), F.S., the purpose of FAFC is to expand employment and income opportunities for residents of this state by providing businesses domiciled in this state with information, technical assistance, and financial assistance.¹⁰

The purpose of these functions is to support space-related transactions in order to increase the development of commercial aerospace products, activities, services, and facilities within the state. Chapter 331, F.S., authorizes FAFC to do the following:

- Insure, coinsure, lend, and guarantee loans;
- Capitalize, underwrite, and secure funding;
- Construct, lease, or sell aerospace infrastructure, satellites, launch vehicles, and related activities;

⁶ See s. 331.302, F.S.

⁷ *Florida Governor's Commission on Space Final Report to Governor Martinez, Steps to the Stars*, July 7, 1988, p. 36.

⁸ See s. 331.368(1), F.S.

⁹ See s. 331.368(8), F.S.

¹⁰ See s. 331.407(1), F.S.

- Acquire property;
- Make and exercise contracts;
- Make direct, guaranteed, or collateralized loans; and
- Create an account for the purposes of receiving state, federal, and financial resources, and to invest in permissible securities.

It is generally understood within the industry that FSRI and FAFC were “spun off” of FSA to provide specialized focus on the accomplishment of specific purposes. An alternative explanation is that the policy scope was too large for one entity and that there was a need for additional organizations as conceived in the 1988 report.

Spaceport Management Council

Section 331.367, F.S., authorizes the Spaceport Management Council (management council), which coordinates between government agencies and commercial operators for the purpose of developing recommendations on projects and activities to increase the operability and capabilities of the state’s space launch facilities, increase statewide space-related industry and opportunities, and promote space education, research, and technology development. The management council is also to create an integrated facility plan and programmatic development plans to address commercial, state, and federal requirements. They are to identify appropriate private, state, and federal resources to implement those plans.

The management council has an executive board which is composed of the executive director of FSA, the Secretary of Transportation, the president of Enterprise Florida, Inc., and the director of the Office of Tourism, Trade, and Economic Development. The management council also has a Space Industry Committee, which is made up of representatives of Florida’s space industry.

Although required by s. 331.367(8), F.S., to meet at least semi-annually, this council, created in 1999, has not functioned as an advisory panel for several years. According to the FSA, this is because the federal members have stated that they cannot participate in such a council due to restrictions placed on them by the Federal Advisory Act.

The federal government agencies (NASA/KSC and the USAF)¹¹ are the landlords of the spaceport, and thus control all activity thereon. The goals of the management council were defeated through lack of authority to implement initiatives. Out of frustration, interest in the council dissolved.¹²

Section 331.367(4)(c), F.S., allows participation by federal entities to contribute to the management council’s effectiveness; however their participation is not mandatory.

Sections 331.367(6) and (7), F.S., require the council to provide “infrastructure and program requirements and develop other information to be utilized in a 5-year spaceport master plan” and provide “requirements and other information to be utilized in the development of a 5-year Spaceport Economic Plan...” Although these plans have been prepared, it has been without the statutorily-required input of the council.

Tax Exemptions for Space Flight Businesses

Section 212.08(5)(j), F.S., provides a 25% tax exemption for machinery and equipment used in defense and space technology facilities to manufacture, process, compound, or produce defense or space products. By definition, this does not include design or creation of a space flight vehicle or components of a space flight vehicle. Section 212.031(1)(a)13., F.S., provides an exemption from the sales tax

¹¹ NASA stands for National Aeronautics and Space Administration; KSC stands for the John F. Kennedy Space Center; and USAF stands for the United States Air Force.

¹² Florida’s 2006 Space Strategy, Florida Space Authority, p. 15.

imposed on the rental of real property for property used for space flight business purposes. "Space flight business" is defined as the manufacturing, processing, or assembly of a space facility, space propulsion system, space vehicle, satellite, or station of any kind possessing the capacity for space flight,¹³ or components thereof, and also means the following activities supporting space flight: vehicle launch activities, flight operations, ground control or ground support, and all administrative activities directly related thereto.

A number of developments in recent years are significantly affecting space enterprises in Florida. In January 2004, President Bush committed the United States to a long-term human and robotic program to explore the solar system, starting with a return to the Moon that will ultimately enable future exploration of Mars and other destinations. The President's plan envisions completion of the International Space Station, retirement of the Space Shuttle by 2010, and the introduction of a new Crew Exploration Vehicle (CEV).

The President's new vision has significant implications for Florida. More than half of Florida's current space-related activities are linked to the Space Shuttle and the International Space Station. The smaller CEV will require significantly fewer personnel at the Kennedy Space Center.

The commission recommended increasing the sales and use tax exemptions for space and defense research, development, and production machinery and equipment from 25 to 100 percent.¹⁴ The Governor's FY 2005-06 Budget Recommendations also include this proposed policy.

Centers of Excellence

In 2002, the Florida Technology Development Act (Technology Act) was enacted, which established a process for the State Board of Education to develop, approve, and authorize expenditures for one or more centers of excellence.¹⁵ A center of excellence is one model to stimulate university to industry technology transfer. The Emerging Technologies Commission, created in the Technology Act, subsequently designated three centers of excellence and distributed \$30 million, which was appropriated by the legislature for this purpose.

Currently, there are three technological Centers of Excellence in the state: The Center of Excellence for Regenerative Health Biotechnology at the University of Florida, the Center of Excellence in Biomedical and Marine Biotechnology at Florida Atlantic University, and Florida Photonics Center of Excellence at University of Central Florida. Each center received \$10 million to facilitate collaborative public-private research, create partnerships between industrial and governmental entities to advance knowledge and research, recruit and retain eminent scholars in advanced technology disciplines, and move technologies from academic laboratories to commercial sectors.

The authorizing legislation, s. 1004.225, F.S., sunset on July 1, 2004. Legislation reestablishing centers of excellence failed to pass during the 2005 Legislative Session.

Center for Mathematics and Science Education Research

The Governor's Commission recommended that a Center for Mathematics and Science Education Research be established at a university to enhance the quality of K-12 math and science instruction in the state. The report specified the following:

Modeled after the existing Center for Reading Research, this Center should identify and disseminate effective teaching strategies and materials for science, mathematics, and related disciplines. The Center should be organized with regional

¹³ Section 212.02(23), F.S., defines "space flight" as any flight designed for suborbital, orbital, or interplanetary travel of a space vehicle, satellite, or station of any kind.

¹⁴ *Governor's Commission on the Future of Space and Aeronautics in Florida Final Report*, January 2006, p. 3-15.

¹⁵ See SB 1844, enrolled, 2002 Legislative Session.

partners who can assist in disseminating information and helping teachers and school systems identify professional development programs that can implement key research findings. The Center can build upon existing programs such as FSRI's Project Launch, which uses space as an overarching theme to help improve mathematics and science teaching, particularly in low-performing schools.¹⁶

The Department of Education noted the following:

The establishment of the Florida Center for Mathematics and Science supports the current efforts of secondary reform in Florida. The proposed high school reform efforts include increased graduation requirements in the area of mathematics. The creation of the center would also help facilitate a decreased need for remediation among graduates of Florida's public high schools upon matriculation into postsecondary. The percent of Florida high school graduates entering our community college system in need of remediation in mathematics was 54% in 2003-2004. Additionally, two critical teacher shortage areas are mathematics and science.¹⁷

Effects of the Bill

HB 1489 w/CS contains some of the commission's recommendations regarding the future of aerospace in Florida.

The bill redesignates FSA as Space Florida and dissolves the three statutory entities, FSA, FSRI, and FAFC, effective September 1, 2006.¹⁸ The bill renames FSA as Space Florida throughout Chapter 331 and cross-references in other chapters of the Florida Statutes. It also changes the name of Space Florida's "Board of Supervisors" to "Board of Directors" and the "executive director" to the "president." Space Florida, as the successor organization, is to assume the records, property, obligations, and unexpended balances of appropriations, allocations, or other funds of, the three former entities.

Legislative Findings and Intent

The bill provides legislative findings and intent that there should be a single, private-public board to strengthen civil and military aerospace activity and emerge as a leader in space exploration and commercial aerospace opportunities, including the integration of space, aeronautics and aviation technologies. The intent is that there be a single point of contact for state aerospace-related activities with federal agencies, the military, state agencies, businesses, and the private sector. The bill provides intent that Space Florida will do the following:

- Encourage public and private sectors to work together to enhance the state's workforce, education, and research capabilities with emphasis on math, science, engineering, and related fields;
- Focus on the state's economic development efforts in order to capture a larger share of activity in aerospace research, technology, production, and commercial operations, while maintaining the state's historical leadership in space launch activities; and
- Preserve the national role served by the Cape Canaveral Air Force Station and Kennedy Space Center by reducing costs and improving the regulatory flexibility for commercial launches while pursuing the development of sites for commercial horizontal launches.

¹⁶ *Florida Governor's Commission on the Future of Space and Aeronautics in Florida Final Report*, January 2006, p. 3-7.

¹⁷ 2006 Legislative Bill Analysis for SB 2580, Department of Education, March 22, 2006, p. 3

¹⁸ The effective date of the act is "upon becoming a law."

Definitions

The bill expands the definitions of the following terms: aerospace, launch pad, person, and project to more accurately reflect the inclusion of commercial space flight activity and emerging technologies within the aerospace industry.

Purpose and Duties of Space Florida

The bill creates Space Florida as a public corporation, body politic, and subdivision of the state governed by a board. It is not clear the type of constitutional organization that is created. However, a 1994 Attorney General Opinion found that the Florida Space Authority, also created as a public corporation, body politic, and subdivision of the state, is an independent special district as defined in s. 189.403(3), F.S.¹⁹

Space Florida is directed to promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs. It is also directed to advise, coordinate, cooperate, and, when necessary, enter into memoranda of agreement with municipalities, counties, regional authorities, state agencies and organizations, appropriate federal agencies, and organizations, and other interested persons and groups. Space Florida cannot endorse public office candidates or contribute money to public office campaigns.

The bill changes the due date of the annual report made to the Legislature consisting of a summary of all travel, entertainment, and incidental expenses from the previous fiscal year from November 30 to September 1. It requires an annual performance report due by September 1 for the prior fiscal year.

Currently, a corporation may not incorporate or transact business in the state using the name "spaceport Florida" or "Florida spaceport" without written approval from FSA. The bill expands this list to limit utilization of the names "Space Florida," "Florida Space Authority," "Florida Space Research Institute," and "Florida Aerospace Finance Corporation" by other entities.

Section 331.3051, F.S., is created to assign Space Florida specific duties.

- By March 1, 2007, create a business plan which addresses:
 - Business development;
 - Finance;
 - Spaceport operations;
 - Research and development;
 - Workforce development; and
 - Education.

The remainder of this section categorizes duties within the target areas listed above.

For the business development and finance target areas of Space Florida's duties, the bill directs Space Florida to consult and coordinate with the following entities:

- The Commission on Tourism and EFI to develop a public advertising program promoting aerospace-related activities, businesses, or any Space Florida project.
- EFI to develop a plan to retain, expand, attract, and create public or private aerospace industry entities and to develop a plan to assist in the financing of aerospace businesses.

¹⁹ Attorney General Opinion 94-85, October 12, 1994. NOTE: The opinion addressed the Spaceport Florida Authority; however the name of the entity was amended into statutes during the 2002 legislative session.

The bill directs Space Florida to create a marketing campaign to help attract, develop, and retain aerospace businesses, aerospace research and technology, and other related activities. It requires that the campaign be coordinated with any existing economic development promotion efforts in the state.

For the spaceport operations target area of Space Florida's duties, the bill directs Space Florida to do the following:

- Seek federal support and developing partnerships to renew and upgrade the infrastructure and technologies at the Cape Canaveral Air Force Station, Kennedy Space Center, and the Eastern Range and assist in clarifying roles and responsibilities of federal agencies and eliminate duplicative rules and policies in order to improve and streamline access for commercial launch activities.²⁰
- Promote and facilitate launch activity by assisting commercial launch operators with completing documentation, approval, and authorization requirements from federal agencies.
- Consult with appropriate federal, state, and local authorities and the industry on all aspects of establishing and operating spaceport infrastructure and related facilities.
- Pursue the development of additional commercial spaceports in partnership with local and federal government and private entities.

For the research and development target areas, the bill directs that Space Florida contract for the operations of the state's Space Life Sciences Laboratory. This is a facility which houses a state-of-the-art space bio-imaging laboratory that provides life sciences research that will be needed for long-duration trips to the Moon and Mars. According to FSRI, the laboratory can support research in many areas, including astrobiology, biomedical space science (radiation effects, bone demineralization, and muscle atrophy) and bioregenerative life support.²¹ Currently, FSRI co-manages this facility with NASA, and manages other leases with universities for use of the laboratory.

Also under the research and development target area of Space Florida's duties, the bill instructs Space Florida to collaborate with public and private universities and other public or private entities to develop a proposal for a Center of Excellence for Aerospace that will foster and promote the research necessary to "develop commercially promising, advanced, and innovative science and technology and will transfer those discoveries to the commercial sector." A center enables collaboration around research and technologies that support space, military, and defense sectors. See discussion of Centers of Excellence in *Present Situation*.

For the workforce development and education target areas, the bill directs Space Florida to consult and work in conjunction with the following entities:

- Workforce Florida, Inc., and to collaborate with Florida vocational institutes, community colleges, colleges, and public and private universities, to develop a plan to retain, train, and retrain workers with the skills most relevant to aeronautics employers.
- The Department of Education to develop innovative aerospace-related education programs that promote math and science education for grades K-20.

Powers of Space Florida

The bill moves the following powers from FAFC to Space Florida:

²⁰ A repeated voiced concern by many commercial space operators is the lengthy process and large number of regulations that must be adhered to when operating a commercial launch on federal property.

²¹ Florida Space Research Institute, 2005 Annual Report, p. 4.

- Insure, coinsure, lend, and guarantee loans and to originate for sale direct aerospace-related loans, pursuant to criteria, bylaws, policies, and procedures adopted by the board.
- Capitalize, underwrite, and secure funding for aerospace infrastructure, satellites, launch vehicles, and any service that supports aerospace launches.
- Construct, lease, or sell aerospace infrastructure, satellites, launch vehicles, and any other related activities and services.

The bill moves the following power from FSRI to Space Florida:

- Acquire, accept, or administer grants, contracts, and fees from other organizations to perform activities that are consistent with the purposes of this section.

The bill moves the power to establish a personnel management system to the board of directors.

The bill removes the power of eminent domain in spaceport territories from Space Florida. It also repeals s. 331.314, F.S., which provides that FSA has exclusive power and authority to regulate spaceports in Florida.

Board of Directors

A majority of the provisions regarding the composition of the board are the same. The major differences include the following:

- The Governor, rather than the Lieutenant Governor, is to serve as chair of the board.
- Designees of appointed members may not vote.
- Board members are required to file disclosure of financial interests pursuant to s. 112.3145, F.S.
- The board is increased from eight to 20 members. Requirements for membership of the board were increased to include eight Governor-appointed members from the private sector; one of which is to be a representative of organized labor,²² and the following, including their designees: Governor, Secretary of Transportation, president of Workforce Florida, Inc., president of Enterprise Florida, Inc., president of Florida Tourism Commission's direct-support organization, and the Commissioner of Education. Six members are to be appointed from the private sector by the Senate and House of Representatives. There are also two non-voting ex officios - a Senator and a Member of the House of Representatives.

Powers and Duties of Board of Directors

Some provisions that were originally listed in statute as powers are changed to duties, such as selecting an executive director for Space Florida and adopting bylaws, rules, resolutions, and orders.

The bill retains the provision that the executive and Space Florida offices be maintained in close proximity to Kennedy Space Center.

The bill moves the following power from FSRI to Space Florida:

- To provide the strategic direction for the aerospace-related research priorities of the state and its aerospace-related businesses, scope of research projects, and the timeframe for completion of the projects.

²² The Governor is directed to attempt to ensure that the board includes, but is not limited to, individuals representing the industries of business, finance, marketing, space, aerospace, aviation, defense, research and development, and education. The Governor is also to "consider whether the current members of the board, together with potential appointees, reflect the racial, ethnic, and gender diversity, as well as the geographic distribution, of the population of the state."

The board is authorized to finance aerospace business development projects or initiatives using the funds appropriated.

Personnel management and the establishment of procedures, rules, and rates governing per diem and travel expenses of employees are moved from the responsibility of Space Florida to the board.

The board no longer has the authority to change the name of Space Florida.

The Office of Tourism, Trade, and Economic Development

Section 14.2015, F.S., is amended by the bill to authorize the Office of Tourism, Trade, and Economic Development to serve as contract administrator for the Space Florida contract with the state.

Tax Issues

The bill amends s. 212.08(5)(j), F.S., which provides for sales and use tax exemptions. It adds "design" and "assemble" to the list of industrial machinery and equipment used in defense of space technology facilities and strikes the current 25 percent tax credit, allowing these items to be fully tax exempt. The bill expands the definition of research and development to include the "design, development, and testing of space launch vehicles, space flight vehicles, missiles, satellites, or research payloads, avionics, and associated control systems and processing systems, and components of any of the foregoing." It adds space flight vehicles and "components of any of the foregoing" to the definition of "space technology products."

Center for Mathematics and Science Education Research

The bill directs the Department of Education (DOE) to establish the Florida Center for Mathematics and Science Education Research at a state university to increase student achievement in those academic areas. DOE is to monitor the center through the Division of K-12 Public Schools. The bill requires the center to do the following:

- Provide technical assistance and support to school districts and schools in the development and implementation of math and science instruction;
- Conduct applied research on policy and practices related to math and science instruction and assessment in the state;
- Conduct or compile basic research regarding student acquisition of math and science knowledge and skills;
- Develop comprehensive course frameworks for math and science courses that emphasize rigor and relevance at the elementary, middle, and high school levels;
- Disseminate information regarding research-based teaching practices in math and science to teachers and teacher educators in the state;
- Collect, manage, and report on assessment information regarding student achievement in mathematics and science;
- Establish partnerships with state universities, community colleges, and school districts; and
- Collaborate with the Florida Center for Reading Research in order to provide research-based practices that integrate the teaching of reading within mathematics and sciences courses.

Spaceport Management Council

The bill repeals s. 331.367, F.S., which provides for the Spaceport Management Council.

Dissolution of FSA, FSRI, and FAFC

The bill dissolves the FSA, FSRI, and FAFC and their corresponding boards effective September 1, 2006. Space Florida will assume their records, property, obligations, and unexpended balances of appropriations, allocations, or other funds. Personnel are not included in the list for transfer. Most of the functions and responsibilities of FSRI and FAFC are not replicated in the language for Space Florida. There is a concern that many of the financial tools that FAFC currently has have been eliminated with the dissolution. The separate existence and not-for-profit status of this corporation allowed it to facilitate and accomplish deals that may not be available under the new language. Similarly, most of the research capabilities and partnerships that were available through FSRI and the advantages of its not-for-profit status seem to be obsolete under the amended chapter.

The bill directs the Governor, the Senate President, and the House Speaker to appoint the board of directors by July 1, 2006. The board is to hold its first meeting by August 1st and appoint a president by September 1st. The Executive Office of the Governor is to provide staffing and transitional support until December 31, 2006.

Appropriations

The bill provides the following nonrecurring appropriations from the General Revenue Fund to the Office of Tourism, Trade, and Economic Development:

- \$35 million to be used for infrastructure needs related to the development of the National Aeronautics and Space Administration's Crew Exploration Vehicle.
- \$8 million for implementation of recommendations made by the Governor's Commission on the Future of Space and Aeronautics in Florida, including, but not limited to, commercial launch assistance and spaceport development.

The bill provides the following recurring appropriations from the General Revenue Fund to the Office of Tourism, Trade, and Economic Development:

- \$3 million for the operational needs of Space Florida.
- \$4 million for implementation of innovative education programs and financing assistance for aerospace business development projects.

C. SECTION DIRECTORY:

Section 1. amends s. 331.301, F.S.; redesignates the "Florida Space Authority Act" as the "Space Florida Act."

Section 2. creates s. 331.3011, F.S.; provides legislative findings and intent.

Section 3. amends s. 331.302, F.S.; creates Space Florida; provides purpose.

Section 4. amends s. 331.303, F.S.; removes, revises, and provides definitions.

Section 5. amends s. 331.305, F.S., revises powers of Space Florida.

Section 6. creates s. 331.3051, F.S.; provides new duties for Space Florida.

Section 8. amends s. 331.308, F.S.; revises membership and requirements of the Space Florida board of directors.

Section 9. amends s. 331.309, F.S.; revises depository language.

Section 10. amends s. 331.310, F.S.; revises powers and duties of the board of supervisors.

Section 11. amends s. 331.3101, F.S.; revises annual report submission date.

Section 48. amends s. 331.355, F.S.; revises requirements for use of names.

Section 51. amends s. 14.2015, F.S.; authorizes the Office of Tourism, Trade, and Economic Development to serve as contract administrator for the state with Space Florida.

Sections 52. amends s. 74.011, F.S.; removes Florida Space Authority from eminent domain language.

Sections 7, 12-47, 49, 50, and 53-58 amend ss. 196.012, 212.02, 288.063, 288.075, 288.35, 288.9415, 331.306, 331.311, 331.312, 331.313, 331.315, 331.316, 331.317, 331.318, 331.319, 331.320, 331.321, 331.322, 331.323, 331.324, 331.325, 331.326, 331.327, 331.328, 331.329, 331.331, 331.333, 331.334, 331.335, 331.336, 331.337, 331.338, 331.339, 331.340, 331.343, 331.345, 331.346, 331.347, 331.348, 331.349, 331.350, 331.351, 331.354, 331.360, and 331.369, F.S.; conform provisions and cross-references.

Section 59. amends s. 212.08, F.S.; expands the exemption from the sales and use tax on certain machinery and equipment.

Section 60. creates s. 1004.86, F.S.; requires the Department of Education to establish the Florida Center for Mathematics and Science Education Research at a public state university; specifying requirements for the center.

Section 61. repeals s. 331.314, F.S., relating to the exclusive authority of the Florida Space Authority to regulate spaceports; repeals s. 331.367, F.S., relating to the Spaceport Management Council; repeals s. 331.368, F.S., relating to the Florida Space Research Institute; repeals ss. 331.401, 331.403, 331.405, 331.407, 331.409, 331.411, 331.415, 331.417, and 331.419, F.S., relating to the Florida Aerospace Finance Corporation.

Section 62. dissolves the Florida Space Authority, the Florida Space Research Institute, and the Florida Aerospace Finance Corporation.

Section 63. requires the Governor, the President of the Senate, and the Speaker of the House of Representatives to appoint the board of directors of Space Florida by a July 1, 2006; requires the board of directors of Space Florida to hold its first meeting by August 1, 2006; requires the board to appoint a president by September 1, 2006.

Section 64. amends s. 288.1224, F.S.; requires the Florida Commission on Tourism to advise and cooperate with Space Florida.

Section 65. amends 288.9015, F.S.; requires Enterprise Florida, Inc to advise and cooperate with Space Florida.

Section 66. amends 445.004, F.S.; requires Workforce Florida, Inc to advise and cooperate with Space Florida.

Section 67. amends s. 1001.10, F.S.; requires the Commissioner of Education to advise and cooperate with Space Florida.

Section 68. provides a \$43 million appropriation of nonrecurring general revenue and a \$7 million appropriation of recurring general revenue to the Office of Tourism, Trade and Economic Development.

Section 69. provides that the act take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference estimated that the provisions of Section 59. of the bill (sales and use tax exemptions) will have an annualized negative impact of \$2.8 million on the state General Revenue Fund in FY 2006.

2. Expenditures:

The bill appropriates \$43 million nonrecurring and \$7 million recurring from the General Revenue Fund to the Office of Tourism, Trade and Economic Development.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The Revenue Estimating Conference estimates that the provisions of Section 59. of the bill (sales and use tax exemptions) will have an annualized negative impact of \$.6 million on local revenues for FY 2006.

2. Expenditures:

The bill is not expected to have an effect on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill reduces the tax burden on businesses that are eligible for the sales and use tax exemptions on machinery and equipment for space and defense.

D. FISCAL COMMENTS:

In Fiscal Year 2005-2006, the Legislature appropriated \$2.9 million for Space Business Development, which included: \$700,000 for Florida Space Authority – Operations; \$550,000 for Florida Space Authority – Space Business Development; \$550,000 for Florida Space Authority – Spaceport P&D; \$300,000 for Florida Aerospace Financing Corporation, and \$800,000 for the Florida Space Research Institute. In addition, \$3 million was appropriated for Aerospace QTI/Crew Exploration Vehicle.

The Governor's budget recommendations for FY 2006-07 recommend \$2 million from General Revenue for the purpose of establishing a Center for Mathematics and Science Education Research. It recommends \$11 from General Revenue Space Florida operations and spaceport development.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not appear to require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

Section 6 of Article IV of the Florida Constitution provides that "all functions of the executive branch of state government shall be allotted among not more than twenty-five departments...." and that the administration of each department be placed under the direct supervision of any of five entities, one of which is the Governor. It would appear that Space Florida would constitute a department headed by the Governor. As an alternative, Space Florida could be assigned to an existing executive department and placed under the direct supervision of the head of such department.

Appointment of officers to a board is an executive duty. Providing the President of the Senate and the Speaker of the House of Representatives with appointment powers confuses the powers as assigned by the Florida Constitution. This might be considered a separation of powers concern.

If Space Florida, as created under this bill, is an independent special district, the bill is a general law of local application. Article III, section 11(a)(21) of the state constitution requires a three-fifths vote of the legislature to enact such laws.

B. RULE-MAKING AUTHORITY:

The bill provides Space Florida sufficient rule-making authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The FSA, FSRI, and FAFC are dissolved effective September 1, 2006, and Space Florida will assume their records, property, obligations, and unexpended balances of appropriations, allocations, or other funds. FSRI and FAFC are not-for-profit corporations established to carry out a specified public purpose. Without state funding, the corporations may cease to exist. Due diligence should be exercised with respect to financial matters and completion of tasks in which the corporations are currently engaged.

If the newly created Space Florida is found to be an independent special district, the bill is a general law of local application and requires a three-fifths votes of the legislature to be enacted.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 28, 2006, the Spaceport and Technology Committee passed the bill as a committee substitute, adopting a strike-all amendment that included the following changes:

- Removed definitions of terms not referred to in Chapter 331.
- Changed approval of bond issuance vote from two-thirds of the Governor and Cabinet to three-fourths to accommodate the reduced number of cabinet members since the law was established.
- Added that business development projects could be funded with monies from the sales tax revenues collected from the Cape Canaveral Air Force Station and Kennedy Space Center and distributed to Space Florida (in Section 60 of the bill). The original bill only authorized the funds to be used for education initiatives.
- Added that Space Florida and its executive office must remain in close proximity to Kennedy Space Center.
- Increased the number of Governor-appointed members of the board from seven to eight, stipulating that one of the appointees must be a representative of organized labor.
- Added that members of the board of directors must be state residents.
- Provided for an annual performance report with respect to Space Florida's business plan.
- Removed memoranda of agreement language and replaced with direction to advise and cooperate with state entities and partners in the areas of economic development, marketing, and education.

- Made technical corrections.

At the April 4, 2006, meeting, the Fiscal Council approved HB 1489 w/CS with two amendments. The first amendment provided a \$43 million nonrecurring appropriation from the General Revenue Fund and a \$7 million recurring appropriation from the General Revenue Fund. The second amendment removed the section of the bill that directed sales tax collected from dealers at Cape Canaveral Air Force Station and the Kennedy Space Center be distributed to Space Florida to be used for business development projects and education initiatives.

HB 1489 CS

2006
CS

CHAMBER ACTION

The Fiscal Council recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the state's aerospace industry; redesignating the "Florida Space Authority" as "Space Florida"; creating s. 331.3011, F.S.; providing legislative intent; providing definitions; revising and consolidating the roles, purposes, responsibilities, assets, and duties of the Florida Space Authority as those of Space Florida; deleting authority to establish facilities and complementary activities; providing additional powers and duties of Space Florida; prohibiting Space Florida from endorsing political candidates or making campaign contributions; characterizing certain property as Space Florida territory; creating s. 331.3051, F.S.; providing additional powers and responsibilities of Space Florida relating to the state's aerospace industry; deleting authority to exercise eminent domain powers; requiring Space Florida to create a business plan and a marketing campaign; requiring Space Florida to coordinate its activities with federal and state agencies; amending

Page 1 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

24 s. 331.308, F.S.; replacing provisions providing for a
25 board of supervisors with provisions providing for a board
26 of directors of Space Florida; providing for designation
27 and appointment of members; providing requirements of
28 board members; providing for terms, removal of members,
29 and filling of vacancies; providing for board meetings;
30 specifying service without compensation; providing for
31 reimbursement of certain expenses; providing financial
32 disclosure requirements; revising powers and duties of the
33 board; amending ss. 331.301, 331.302, 331.303, 331.305,
34 331.306, 331.309, 331.310, 331.3101, 331.311, 331.312,
35 331.313, 331.315, 331.316, 331.317, 331.318, 331.319,
36 331.320, 331.321, 331.322, 331.323, 331.324, 331.325,
37 331.326, 331.327, 331.328, 331.329, 331.331, 331.333,
38 331.334, 331.335, 331.336, 331.337, 331.338, 331.339,
39 331.340, 331.343, 331.345, 331.346, 331.347, 331.348,
40 331.349, 331.350, 331.351, 331.354, 331.355, 331.360, and
41 331.369, F.S., to conform; amending ss. 14.2015, 74.011,
42 196.012, 212.02, 288.063, 288.075, 288.35, and 288.9415,
43 F.S., to conform; amending s. 212.08, F.S.; expanding the
44 exemption from the sales and use tax on certain machinery
45 and equipment; creating s. 1004.86, F.S.; requiring the
46 Department of Education to establish the Florida Center
47 for Mathematics and Science Education Research at a public
48 state university; specifying requirements for the center;
49 repealing s. 331.314, F.S., relating to the exclusive
50 authority of the Florida Space Authority to regulate
51 spaceports; repealing s. 331.367, F.S., relating to the

Page 2 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

Spaceport Management Council; repealing s. 331.368, F.S., relating to the Florida Space Research Institute; repealing ss. 331.401, 331.403, 331.405, 331.407, 331.409, 331.411, 331.415, 331.417, and 331.419, F.S., relating to the Florida Aerospace Finance Corporation; providing that the Florida Space Authority, the Florida Space Research Institute, and the Florida Aerospace Finance Corporation are dissolved on a specified date; providing that Space Florida assumes the records, property, and unexpended balances of appropriations, allocations, and other funds from the dissolved entities; requiring the Governor, the President of the Senate, and the Speaker of the House of Representatives to appoint the board of directors of Space Florida by a specified date; requiring the board of directors of Space Florida to hold its first meeting by a specified date; amending ss. 228.1224, 288.9015, 445.004, and 1001.10, F.S.; requiring the Florida Commission on Tourism, Enterprise Florida, Inc., Workforce Florida, Inc., and the Commissioner of Education to advise and cooperate with Space Florida under certain circumstances; providing appropriations; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 331.301, Florida Statutes, is amended to read:

331.301 Short title.--This act may be cited as the "Space Florida Space Authority Act."

HB 1489 CS

2006
CS

80 Section 2. Section 331.3011, Florida Statutes, is created
81 to read:

82 331.3011 Legislative findings and intent.--

83 (1) The Legislature finds and declares that the aerospace
84 industry of this state is integral to the state's long-term
85 success in diversifying its economy and building a knowledge-
86 based economy that is able to support the creation of high
87 value-added businesses and jobs. Further, under the direction
88 and leadership of a single, private-public board, this state has
89 the opportunity to strengthen its existing leadership in civil
90 and military aerospace activity and emerge as a leader in the
91 nation's new vision for space exploration and commercial
92 aerospace opportunities, including the integration of space,
93 aeronautics, and aviation technologies. As the leading location
94 for talent, research, advanced technologies and systems
95 development, launch, and other aerospace-based industry
96 activities, this state can position itself for sustainable
97 economic growth and prosperity.

98 (2) The Legislature finds that attaining this vision
99 requires a strong public and private commitment to a world class
100 aerospace industry. It is the intent of the Legislature that
101 Space Florida will encourage the public and private sectors to
102 work together to implement an aggressive strategy that enhances
103 the state's workforce, education, and research capabilities,
104 with emphasis on mathematics, science, engineering, and related
105 fields; will focus on the state's economic development efforts
106 in order to capture a larger share of activity in aerospace
107 research, technology, production, and commercial operations,

HB 1489 CS

2006
CS

108 while maintaining the state's historical leadership in space
109 launch activities; and will preserve the unique national role
110 served by the Cape Canaveral Air Force Station and John F.
111 Kennedy Space Center by reducing costs and improving the
112 regulatory flexibility for commercial sector launches while
113 pursuing the development of sites for commercial horizontal
114 launches.

115 (3) It is the intent of the Legislature that aerospace
116 activities be highly visible and coordinated within this state.
117 To that end, it is the intent of the Legislature that Space
118 Florida provide a single point of contact for state aerospace-
119 related activities with federal agencies, the military, state
120 agencies, businesses, and the private sector.

121 Section 3. Section 331.302, Florida Statutes, is amended
122 to read:

123 (Substantial rewording of section. See
124 s. 331.302, F.S., for present text.)

125 331.302 Space Florida; creation; purpose.--

126 (1) There is established, formed, and created Space
127 Florida, which is created and incorporated as a public
128 corporation, body politic, and subdivision of the state to
129 foster the growth and development of a sustainable and world-
130 leading aerospace industry in this state. Space Florida shall
131 promote aerospace business development by facilitating business
132 financing, spaceport operations, research and development,
133 workforce development, and innovative education programs. Space
134 Florida has all the powers, rights, privileges, and authority as
135 provided under the laws of this state.

Page 5 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

136 (2) In carrying out its duties and responsibilities, Space
137 Florida shall advise, coordinate, cooperate, and, when
138 necessary, enter into memoranda of agreement with
139 municipalities, counties, regional authorities, state agencies
140 and organizations, appropriate federal agencies and
141 organizations, and other interested persons and groups.

142 (3) Space Florida may not endorse any candidate for any
143 elected public office or contribute money to the campaign of any
144 candidate for public office.

145 (4) Space Florida is not an agency as defined in ss.
146 216.011 and 287.012.

147 Section 4. Section 331.303, Florida Statutes, is amended
148 to read:

149 331.303 Definitions.--

150 (1) "Aerospace" means the industry that designs and
151 manufactures aircraft, rockets, missiles, spacecraft,
152 satellites, space vehicles, space stations, space facilities or
153 components thereof, and equipment, systems, facilities,
154 simulators, programs, and related activities. "Authority" means
155 the Florida Space Authority created by this act.

156 (2) "Board" or "board of directors supervisors" means the
157 governing body of Space Florida ~~the authority~~.

158 (3) "Bonds" means revenue bonds, assessment bonds, or
159 other bonds or obligations issued by Space Florida ~~the authority~~
160 for the purpose of raising financing for its projects.

161 (4) "Business client" means any person, other than a state
162 official or state employee, who receives the services of, or is
163 the subject of solicitation by, representatives of Space Florida

HB 1489 CS

2006
CS

164 ~~the authority~~ in connection with the performance of its
165 statutory duties, including purchasers or prospective purchasers
166 of Space Florida ~~authority~~ services, persons or representatives
167 of firms considering or being solicited for investment in Space
168 Florida ~~authority~~ projects, persons or representatives of firms
169 considering or being solicited for location, relocation, or
170 expansion of an aerospace-related ~~a space-related~~ business
171 within the state, and business, financial, or other persons
172 connected with the aerospace ~~space~~ industry.

173 ~~(5) "Complementary activity" means any space business~~
174 ~~incubator, space tourism activity, educational involvement in an~~
175 ~~incubator, or space tourism and space-related research and~~
176 ~~development.~~

177 ~~(6) "Conduit bond" means any bond of the authority which~~
178 ~~is a nonrecourse obligation of the authority payable from the~~
179 ~~proceeds of such bonds and related financing agreements.~~

180 ~~(5)(7)~~ "Cost" means all costs, fees, charges, expenses,
181 and amounts associated with the development of projects by Space
182 Florida ~~the authority~~.

183 ~~(6)(8)~~ "Entertainment expenses" means the actual,
184 necessary, and reasonable costs of providing hospitality for
185 business clients or guests, which costs are defined and
186 prescribed by rules adopted by Space Florida ~~the authority~~,
187 subject to approval by the Chief Financial Officer.

188 ~~(9) "Federal aid" means any property, funding, or other~~
189 ~~financial assistance provided by the Federal Government to the~~
190 ~~authority for its projects.~~

HB 1489 CS

2006
CS

191 (7)-(10) "Financing agreement" means a lease, lease-
192 purchase agreement, lease with option to purchase, sale or
193 installment sale agreement, whether title passes in whole or in
194 part at any time before ~~prior to~~, at, or after completion of the
195 project, loan agreement, or other agreement forming the basis
196 for the financing under this act, including any agreements,
197 guarantees, or security instruments forming part of or related
198 to providing assurance of payment of the obligations under the
199 ~~such~~ financing agreement.

200 (8)-(11) "Guest" means a person, other than a state
201 official or state employee, authorized by the board or its
202 designee to receive the hospitality of Space Florida ~~the~~
203 ~~authority~~ in connection with the performance of its statutory
204 duties.

205 (9)-(12) "Landing area" means the geographical area
206 designated by Space Florida ~~the authority~~ within the spaceport
207 territory for or intended for the landing and surface
208 maneuvering of any launch or other space vehicle.

209 (10)-(13) "Launch pad" means any launch pad, runway,
210 airstrip, or similar facility ~~used by the spaceport or spaceport~~
211 ~~user~~ for launching of space vehicles.

212 (11)-(14) "Payload" means any property or cargo to be
213 transported aboard any vehicle launched by or from the
214 spaceport.

215 (12)-(15) "Person" means any individual, child, community
216 college, college, university, firm, association, joint venture,
217 partnership, estate, trust, business trust, syndicate,
218 fiduciary, corporation, nation, government (federal, state, or

HB 1489 CS

2006
CS

219 local), agency (government or other), subdivision of the state,
220 municipality, county, business entity, or any other group or
221 combination.

222 (13)~~(16)~~ "Project" means any development, improvement,
223 property, launch, utility, facility, system, works, road,
224 sidewalk, enterprise, service, or convenience, which may include
225 coordination with state partners or agencies ~~Enterprise Florida,~~
226 ~~Inc., the Board of Education, the Florida Aerospace Finance~~
227 ~~Corporation, and the Florida Space Research Institute;~~ any
228 rocket, capsule, module, launch facility, assembly facility,
229 operations or control facility, tracking facility,
230 administrative facility, or any other type of aerospace-related
231 ~~space-related~~ transportation vehicle, station, or facility; any
232 type of equipment or instrument to be used or useful in
233 connection with any of the foregoing; any type of intellectual
234 property and intellectual property protection in connection with
235 any of the foregoing including, without limitation, any patent,
236 copyright, trademark, and service mark for, among other things,
237 computer software; any water, wastewater, gas, or electric
238 utility system, plant, or distribution or collection system; any
239 small business incubator initiative, including any startup
240 aerospace company, and any aerospace business proposing to
241 expand or locate its business in this state, research and
242 development company, research and development facility,
243 education and workforce training facility, storage facility, and
244 consulting service; or any tourism initiative, including any
245 space experience attraction, microgravity flight program,

HB 1489 CS

2006
CS

246 aerospace space-launch-related activity, and space museum
247 sponsored or promoted by Space Florida ~~the authority~~.

248 ~~(14)-(17)~~ "Range" means the geographical area designated by
249 Space Florida ~~the authority~~ or other appropriate body as the
250 area for the launching of rockets, missiles, launch vehicles,
251 and other vehicles designed to reach high altitude.

252 ~~(15)-(18)~~ "Recovery" means the recovery of space vehicles
253 and payloads which have been launched from or by a ~~the~~
254 spaceport.

255 ~~(16)-(19)~~ "Spaceport" means any area of land or water, or
256 any manmade object or facility located therein, developed by
257 Space Florida ~~the authority~~ under this act, which area is
258 intended for public use or for the launching, takeoff, and
259 landing of spacecraft and aircraft, and includes any appurtenant
260 areas which are used or intended for public use, for spaceport
261 buildings, or for other spaceport facilities, spaceport
262 projects, or rights-of-way.

263 ~~(20)~~ ~~"Spaceport Florida" means the authority or its~~
264 ~~facilities and projects.~~

265 ~~(17)-(21)~~ "Spaceport launch facilities" means ~~shall be~~
266 ~~defined as~~ industrial facilities as described ~~in accordance with~~
267 s. 380.0651(3)(c) and include any launch pad, launch control
268 center, and fixed launch-support equipment.

269 ~~(22)~~ ~~"Spaceport system" means the programs, organizations,~~
270 ~~and infrastructure developed by the authority for the~~
271 ~~development of facilities or activities to enhance and provide~~
272 ~~commercial space-related development opportunities for business,~~
273 ~~education, and government within the state.~~

HB 1489 CS

2006
CS

274 ~~(18)(23)~~ "Spaceport territory" means the geographical area
275 designated in s. 331.304 and as amended or changed in accordance
276 with s. 331.329.

277 ~~(19)(24)~~ "Spaceport user" means any person who uses the
278 facilities or services of any spaceport; and, for the purposes
279 of any exemptions or rights granted under this act, the said
280 spaceport user shall be deemed a spaceport user only during the
281 time period in which the ~~such~~ person has in effect a contract,
282 memorandum of understanding, or agreement with the spaceport,
283 and such rights and exemptions shall be granted with respect to
284 transactions relating only to spaceport projects.

285 ~~(20)(25)~~ "Travel expenses" means the actual, necessary,
286 and reasonable costs of transportation, meals, lodging, and
287 incidental expenses normally incurred by a traveler, which costs
288 are defined and prescribed by rules adopted by Space Florida ~~the~~
289 ~~authority~~, subject to approval by the Chief Financial Officer.

290 ~~(21)(26)~~ "Spaceport discretionary capacity improvement
291 projects" means capacity improvements that enhance space
292 transportation capacity at spaceports that have had one or more
293 orbital or suborbital flights during the previous calendar year
294 or have an agreement in writing for installation of one or more
295 regularly scheduled orbital or suborbital flights upon the
296 commitment of funds for stipulated spaceport capital
297 improvements.

298 Section 5. Section 331.305, Florida Statutes, is amended
299 to read:

300 331.305 Powers of Space Florida ~~the authority~~.--Space
301 Florida may ~~The authority shall have the power to:~~

HB 1489 CS

2006
CS

302 (1) Exercise all powers granted to corporations under the
303 Florida Business Corporation Act, chapter 607.

304 (2) Sue and be sued by its name in any court of law or in
305 equity.

306 (3) Adopt and use a corporate seal and alter the same at
307 pleasure.

308 ~~(4) Review and make recommendations with respect to a~~
309 ~~strategy to guide and facilitate the future of space-related~~
310 ~~educational and commercial development. The authority shall in~~
311 ~~coordination with the Federal Government, private industry, and~~
312 ~~Florida universities develop a business plan which shall address~~
313 ~~the expansion of Spaceport Florida locations, space launch~~
314 ~~capacity, spaceport projects, and complementary activities,~~
315 ~~which shall include, but not be limited to, a detailed analysis~~
316 ~~of:~~

317 ~~(a) The authority and the commercial space industry.~~

318 ~~(b) Products, services description potential,~~
319 ~~technologies, skills.~~

320 ~~(c) Market research and evaluation customers,~~
321 ~~competition, economics.~~

322 ~~(d) Marketing plan and strategy.~~

323 ~~(e) Design and development plan tasks, difficulties,~~
324 ~~costs.~~

325 ~~(f) Manufacturing locations, facilities, and operations~~
326 ~~plan.~~

327 ~~(g) Management organization roles and responsibilities.~~

328 ~~(h) Overall schedule (monthly).~~

329 ~~(i) Important risks, assumptions, and problems.~~

HB 1489 CS

2006
CS

330 ~~(j) Community impact economic, human development,~~
331 ~~community development.~~

332 ~~(k) Financial plan (monthly for first year, quarterly for~~
333 ~~next 3 years).~~

334 ~~(l) Proposed authority offering financing,~~
335 ~~capitalization, use of funds.~~

336 (4)~~(5)~~ Acquire property, real, personal, intangible,
337 tangible, or mixed, within or without its territorial limits, in
338 fee simple or any lesser interest or estate, by purchase, gift,
339 devise, or lease, on such terms and conditions as the board may
340 deem necessary or desirable, and sell or otherwise dispose of
341 the same and of any of the assets and properties of Space
342 Florida ~~the authority.~~

343 (5)~~(6)~~ Make and execute any and all contracts and other
344 instruments necessary or convenient to the exercise of its
345 powers, including financing agreements with persons or spaceport
346 users to facilitate the financing, construction, leasing, or
347 sale of any project.

348 (6)~~(7)~~ Whenever deemed necessary by the board, lease as
349 lessor or lessee to or from any person, public or private, any
350 facilities or property for the use of Space Florida ~~the~~
351 ~~authority~~ and carry out any of the purposes of Space Florida ~~the~~
352 ~~authority.~~

353 ~~(8) Appoint, through its board of supervisors, an~~
354 ~~executive director.~~

355 (7)~~(9)~~ Own, acquire, construct, develop, create,
356 reconstruct, equip, operate, maintain, extend, and improve
357 launch pads, landing areas, ranges, payload assembly buildings,

HB 1489 CS

2006
CS

358 payload processing facilities, laboratories, aerospace space
359 business incubators, launch vehicles, payloads, space flight
360 hardware, facilities and equipment for the construction of
361 payloads, space flight hardware, rockets, and other launch
362 vehicles, and other spaceport facilities and other aerospace-
363 related ~~space-related~~ systems, including educational, cultural,
364 and parking facilities and aerospace-related ~~space-related~~
365 initiatives.

366 (8) Insure, coinsure, lend, and guarantee loans and to
367 originate for sale direct aerospace-related loans, pursuant to
368 criteria, bylaws, policies, and procedures adopted by the board.

369 (9) Capitalize, underwrite, and secure funding for
370 aerospace infrastructure, satellites, launch vehicles, and any
371 service that supports aerospace launches.

372 (10) Construct, lease, or sell aerospace infrastructure,
373 satellites, launch vehicles, and any other related activities
374 and services.

375 (11) Acquire, accept, or administer grants, contracts, and
376 fees from other organizations to perform activities that are
377 consistent with the purposes of this section.

378 ~~(10) Undertake a program of advertising to the public~~
379 ~~promoting space-related businesses or any spaceport projects of~~
380 ~~the authority, and expend moneys and undertake such activities~~
381 ~~to carry out such advertising and promotional program as the~~
382 ~~board from time to time may determine.~~

383 (12) ~~(11)~~ Own, acquire, construct, reconstruct, equip,
384 operate, maintain, extend, or and improve transportation
385 facilities appropriate to meet the transportation requirements

HB 1489 CS

2006
CS

386 of Space Florida ~~the authority~~ and activities conducted within
387 the spaceport territory.

388 (13)~~(12)~~ Own, acquire, construct, reconstruct, equip,
389 operate, maintain, extend, or ~~and~~ improve electric power plants,
390 transmission lines and related facilities, gas mains and
391 facilities of any nature for the production or distribution of
392 natural gas, transmission lines and related facilities and
393 plants and facilities for the generation and transmission of
394 power through traditional and new and experimental sources of
395 power and energy; purchase electric power, natural gas, and
396 other sources of power for distribution within any spaceport
397 territory; develop and operate water and sewer systems and waste
398 collection and disposal consistent with chapter 88-130, Laws of
399 Florida; and develop and operate such new and experimental
400 public utilities, including, but not limited to, centrally
401 distributed heating and air-conditioning facilities and
402 services, closed-circuit television systems, and computer
403 services and facilities, as the board may from time to time
404 determine. However, Space Florida may ~~the authority shall~~ not
405 construct any system, work, project, or utility authorized to be
406 constructed under this paragraph in the event that a system,
407 work, project, or utility of a similar character is being
408 actually operated by a municipality or private company in the
409 municipality or territory adjacent thereto, unless such
410 municipality or private company consents to such construction.

411 (14)~~(13)~~ Designate, set aside, and maintain lands and
412 areas within or without the territorial limits of any spaceport
413 territory as conservation areas or bird and wildlife

HB 1489 CS

2006
CS

414 sanctuaries; stock such areas with animal and plant life and
415 stock water areas with fish and other aquatic life; adopt
416 pursuant to ss. 120.536(1) and 120.54 ~~promulgate~~ and enforce
417 ~~rules and regulations~~ with respect thereto and protect and
418 preserve the natural beauty thereof; and do all acts necessary
419 or desirable in order to qualify such lands and areas as
420 conservation areas and sanctuaries under any of the laws of the
421 state or under federal law.

422 (15)~~(14)~~ Establish a program for the control, abatement,
423 and elimination of mosquitoes and other noxious insects,
424 rodents, reptiles, and other pests throughout the spaceport
425 territory and undertake such works and construct such facilities
426 within or without the spaceport territory as may be determined
427 by the board to be needed to effectuate such program; abate and
428 suppress mosquitoes and other arthropods, whether disease-
429 bearing or pestiferous, within any spaceport territory when in
430 the judgment of the board such action is necessary or desirable
431 for the health and welfare of the inhabitants of or visitors to
432 any spaceport; and take any and all temporary or permanent
433 eliminative measures that the board may deem advisable. The
434 Legislature hereby finds and declares Space Florida ~~the~~
435 ~~authority~~ eligible to receive state funds, supplies, services,
436 and equipment available or that may in the future become
437 available to mosquito or pest control districts, the provisions
438 of s. 388.021 notwithstanding.

439 (16)~~(15)~~ Subject to the rules and regulations of the
440 appropriate water management district, own, acquire, construct,
441 reconstruct, equip, maintain, operate, extend, and improve water

HB 1489 CS

2006
CS

442 and flood control facilities. The Legislature hereby finds and
443 declares Space Florida ~~the authority~~ eligible to receive moneys,
444 disbursements, and assistance from the state available to flood
445 control or water management districts and navigation districts
446 or agencies.

447 ~~(17)~~~~(16)~~ Own, acquire, construct, reconstruct, equip,
448 maintain, operate, extend, and improve public safety facilities
449 for the spaceport, including security stations, security
450 vehicles, fire stations, water mains and plugs, and fire trucks
451 and other vehicles and equipment; hire employees, security
452 officers, and firefighters; and undertake such works and
453 construct such facilities determined by the board to be
454 necessary or desirable to promote and ensure public safety
455 within the spaceport territory.

456 ~~(18)~~~~(17)~~ Hire, through its president ~~executive director~~, a
457 safety officer with substantial experience in public safety
458 procedures and programs for space vehicle launching and related
459 hazardous operations. The safety officer shall monitor and
460 report on the safety and hazards of ground-based space
461 operations to the president ~~executive director~~.

462 ~~(18)~~ ~~Establish a personnel management system for hiring~~
463 ~~employees and setting employee benefit packages. The personnel~~
464 ~~of the authority shall not be considered to be within the state~~
465 ~~employment system.~~

466 ~~(19)~~ ~~Establish procedures, rules, and rates governing per~~
467 ~~diem and travel expenses of its employees, the members of the~~
468 ~~board of supervisors, and other persons authorized by the board~~
469 ~~to incur such expenses. Except as otherwise provided in s.~~

HB 1489 CS

2006
CS

470 ~~331.3101, such rules are subject to provisions of state law or~~
471 ~~rules pertaining to per diem and travel expenses of public~~
472 ~~officers, employees, or other persons authorized by an agency~~
473 ~~head to incur such expenses.~~

474 (19)(20) Examine, develop, and use utilize new concepts,
475 designs, and ideas; own, acquire, construct, reconstruct, equip,
476 operate, maintain, extend, and improve experimental spaceport
477 facilities and services; and otherwise undertake, sponsor,
478 finance, and maintain such research activities, experimentation,
479 and development as the board may from time to time determine, in
480 connection with any of the projects that Space Florida the
481 ~~authority~~ is authorized to undertake pursuant to the powers and
482 authority vested in it by this act, and in order to promote the
483 development and utilization of new concepts, designs, and ideas
484 in the fields of space exploration, commercialization of the
485 space industry, and spaceport facilities.

486 (20)(21) Issue revenue bonds, assessment bonds, or any
487 other bonds or obligations authorized by the provisions of this
488 act or any other law, or any combination of the foregoing, and
489 pay all or part of the cost of the acquisition, construction,
490 reconstruction, extension, repair, improvement, or maintenance
491 of any project or combination of projects, including payloads
492 and space flight hardware, and equipment for research,
493 development, and educational activities, to provide for any
494 facility, service, or other activity of Space Florida the
495 ~~authority~~, and provide for the retirement or refunding of any
496 bonds or obligations of Space Florida the ~~authority~~, or for any
497 combination of the foregoing purposes. Space Florida The

Page 18 of 88

CODING: Words stricken are deletions; words underlined are additions.

hb1489-02-c2

HB 1489 CS

2006
CS

498 ~~authority~~ must provide 14 days' notice to the presiding officers
499 and appropriations chairs of both houses of the Legislature
500 prior to presenting a bond proposal to the Governor and Cabinet.
501 If either presiding officer or appropriations chair objects to
502 the bonding proposal within the 14-day-notice period, the bond
503 issuance may be approved only by a vote of three-fourths ~~two-~~
504 ~~thirds~~ of the members of the Governor and Cabinet.

505 (21) ~~(22)~~ Make expenditures for entertainment and travel
506 expenses and business clients, guests, and other authorized
507 persons as provided in this act.

508 (22) ~~(23)~~ In connection with any financing agreement, fix
509 and collect fees, loan payments, rental payments, and other
510 charges for the use of any project in such amount as to provide
511 sufficient moneys to pay the principal of and interest on bonds
512 as the same shall become due and payable, if so provided in the
513 bond resolution or trust agreement, and to create reserves for
514 such purposes. The fees, rents, payments, and charges and all
515 other revenues and proceeds derived from the project in
516 connection with which the bonds of any issue shall have been
517 issued, except such part thereof as may be necessary for such
518 reserves or any expenditures as may be provided in the
519 resolution authorizing the issuance of the bonds or in the trust
520 agreement securing the same, shall be set aside, at the time as
521 may be specified in the resolution or trust agreement, in a
522 sinking fund which may be pledged to and charged with the
523 payment of the principal of and the interest on such bonds as
524 the same shall become due and the redemption price or the
525 purchase price of bonds retired by call or purchase as therein

HB 1489 CS

2006
CS

526 provided. Such pledge is ~~shall be~~ valid and binding from the
527 time the pledge is made. The fees, rents, charges, and other
528 revenues and moneys so pledged and thereafter received by or on
529 behalf of Space Florida ~~the authority~~ shall immediately be
530 subject to the lien of any such pledge without any physical
531 delivery thereof or further act, and the lien of any such pledge
532 is ~~shall be~~ valid and binding as against all parties having
533 claims of any kind in tort, contract, or otherwise against Space
534 Florida ~~the authority~~, irrespective of whether such parties have
535 notice thereof. Neither the resolution nor any trust agreement
536 by which a pledge is created need be filed or recorded, except
537 in the records of Space Florida ~~the authority~~. The use and
538 disposition of money to the credit of the sinking fund shall be
539 subject to the provisions of the resolution authorizing the
540 issuance of such bonds or the provisions of such trust
541 agreement.

542 ~~(24) Exercise the right and power of eminent domain in~~
543 ~~spaceport territory as defined in s. 331.304. In exercising such~~
544 ~~power, the authority shall comply with the procedures and~~
545 ~~requirements of chapters 73 and 74.~~

546 Section 6. Section 331.3051, Florida Statutes, is created
547 to read:

548 331.3051 Duties of Space Florida.--Space Florida shall:

549 (1) Create a business plan to foster the growth and
550 development of the aerospace industry. The business plan must
551 address business development; finance; spaceport operations;
552 research and development; workforce development; and education.

HB 1489 CS

2006
CS

553 The business plan must be completed by March 1, 2007, and be
554 revised when determined as necessary by the board.

555 (2) Consult and coordinate to the extent possible with the
556 Department of Education, the Department of Transportation,
557 Enterprise Florida, Inc., the Florida Commission on Tourism and
558 its direct-support organization, and Workforce Florida, Inc.,
559 for the purpose of implementing this act.

560 (3) Consult with Enterprise Florida, Inc., in developing a
561 plan to retain, expand, attract, and create aerospace industry
562 entities, public or private, which results in the creation of
563 high-value-added businesses and jobs in this state.

564 (4) Create a marketing campaign to help attract, develop,
565 and retain aerospace businesses, aerospace research and
566 technology, and other related activities in this state. The
567 campaign must be coordinated with any existing economic-
568 development-promotion efforts in this state and may use private
569 resources. Marketing strategies may include developing
570 promotional materials, Internet and print advertising, public
571 relations and media placement, trade show attendance, and other
572 activities.

573 (5) Develop, with input from Enterprise Florida, Inc., and
574 the Florida Commission on Tourism and its direct-support
575 organization, a public advertising program promoting aerospace-
576 related activities, businesses, or any Space Florida projects.

577 (6) Develop, with input from Enterprise Florida, Inc., a
578 plan to finance aerospace businesses. The plan may include the
579 following activities:

HB 1489 CS

2006
CS

580 (a) Assembling, publishing, and disseminating information
581 concerning financing opportunities and techniques for aerospace
582 projects, programs, and activities; sources of public and
583 private aerospace financing assistance; and sources of
584 aerospace-related financing.

585 (b) Organizing, hosting, and participating in seminars and
586 other forums designed to disseminate information and technical
587 assistance regarding aerospace-related financing.

588 (c) Coordinating with programs and goals of the Department
589 of Defense, the National Aeronautics and Space Administration,
590 the Export-Import Bank of the United States, the International
591 Trade Administration of the United States Department of
592 Commerce, the Foreign Credit Insurance Association, and other
593 private and public programs and organizations, domestic and
594 foreign.

595 (d) Establishing a network of contacts among those
596 domestic and foreign public and private organizations that
597 provide information, technical assistance, and financial support
598 to the aerospace industry.

599 (7) Carry out its responsibilities for spaceport
600 operations by:

601 (a) Seeking federal support and developing partnerships to
602 renew and upgrade the infrastructure and technologies at the
603 Cape Canaveral Air Force Station, the John F. Kennedy Space
604 Center, and the Eastern Range that will enhance space and
605 military programs of the Federal Government, and improve access
606 for commercial launch activities.

HB 1489 CS

2006
CS

(b) Supporting federal efforts to clarify roles and responsibilities of federal agencies, and eliminating duplicative federal rules and policies, in an effort to streamline access for commercial launch users.

(c) Pursuing the development of additional commercial spaceports in the state through a competitive request for proposals in partnership with counties or municipalities, the Federal Government, or private entities.

(d) Promoting and facilitating launch activity within the state by supporting and assisting commercial launch operators in completing and submitting required documentation and gaining approvals and authorization from the required federal agencies for launching from Florida.

(e) Consulting, as necessary, with the appropriate federal, state, and local authorities, including the National Aeronautics and Space Administration, the Federal Aviation Administration, the Department of Defense, the Department of Transportation, the Florida National Guard, and industry on all aspects of establishing and operating spaceport infrastructure and related facilities within the state.

(8) Carry out its responsibility for research and development by:

(a) Contracting for the operations of the state's Space Life Sciences Laboratory.

(b) Working in collaboration with one or more universities and other public or private entities to develop a proposal for a Center of Excellence for Aerospace that will foster and promote the research necessary to develop commercially promising,

HB 1489 CS

2006
CS

635 advanced, and innovative science and technology and will
636 transfer those discoveries to the commercial sector.

637 (9) Carry out its responsibility for workforce
638 development, with input from Workforce Florida, Inc., community
639 colleges, colleges, public and private universities, and other
640 public and private partners to develop a plan to retain, train,
641 and retrain workers, from entry-level skills training through to
642 technician-level, and 4-year degrees and higher, with the skills
643 most relevant to aerospace employers.

644 (10) Carry out its responsibility for creating innovative
645 education programs by funding programs developed in conjunction
646 with the Department of Education that target grades K-20 in an
647 effort to promote mathematics and science education programs,
648 which may include the Florida-NASA Matching Grant Program,
649 aerospace-focused education programs for teachers, education-
650 oriented microgravity flight programs for teachers and students,
651 and Internet-based aerospace education. Funds collected pursuant
652 to s. 212.20(6)(d) and any in-kind or private-sector
653 contribution may be used to carry out innovative education
654 programs. In its annual report, Space Florida shall include, at
655 a minimum, a description of programs funded, the number of
656 students served, and private-sector support.

657 (11) Annually report on its performance with respect to
658 its business plan, to include finance, spaceport operations,
659 research and development, workforce development, and education.
660 The report shall be submitted to the Governor, the President of
661 the Senate, and the Speaker of the House of Representatives no
662 later than September 1 for the prior fiscal year.

HB 1489 CS

2006
CS

663 Section 7. Section 331.306, Florida Statutes, is amended
664 to read:

665 331.306 Federal airspace notification.--In coordination
666 with the Florida Department of Transportation, Space Florida ~~the~~
667 ~~authority~~ shall develop and file the federal airspace
668 notification required for priority airspace use.

669 Section 8. Section 331.308, Florida Statutes, is amended
670 to read:

671 331.308 Board of directors ~~supervisors~~.--

672 (1) Space Florida shall be governed by a board of
673 directors. Designees of appointed members do not have voting
674 authority. The board of directors shall consist of the following
675 members:

676 (a) The Governor or the Governor's designee.

677 (b) The Secretary of Transportation or the secretary's
678 designee.

679 (c) The president of Workforce Florida, Inc., or the
680 president's designee.

681 (d) The president of Enterprise Florida, Inc., or the
682 president's designee.

683 (e) The president of the direct-support organization of
684 the Florida Commission on Tourism or the president's designee.

685 (f) The Commissioner of Education or the commissioner's
686 designee.

687 (g) Eight members from the private sector, one of whom
688 shall be a representative of organized labor, appointed by the
689 Governor. In making these appointments, the Governor shall
690 ensure that the composition of the board reflects the diversity

HB 1489 CS

2006
CS

691 of the aerospace industry community of this state and, to the
692 greatest degree possible, that the composition of the board
693 includes, but is not limited to, individuals representing the
694 industries of business, finance, marketing, space, aerospace,
695 aviation, defense, research and development, and education. The
696 Governor shall also consider whether the current members of the
697 board, together with potential appointees, reflect the racial,
698 ethnic, and gender diversity, as well as the geographic
699 distribution, of the population of the state.

700 (h) Two ex officio, nonvoting members, one of whom shall
701 be a member of the Senate, selected by the President of the
702 Senate, and one of whom shall be a member of the House of
703 Representatives, selected by the Speaker of the House of
704 Representatives.

705 (i) Six members from the private sector, three of whom
706 shall be appointed by the President of the Senate and three of
707 whom shall be appointed by the Speaker of the House of
708 Representatives.

709 (2)(a) Vacancies on the board shall be filled for the
710 unexpired term in the same manner as the original appointments
711 to the board.

712 (b) Each member of the board of directors shall serve for
713 a term of 4 years, except that the initial terms shall be
714 staggered.

715 1. The Governor shall appoint two members for a 1-year
716 term, two members for 2-year terms, and three members for 4-year
717 terms.

HB 1489 CS

2006
CS

718 2. The President of the Senate and the Speaker of the
719 House of Representatives shall each appoint one member for a 1-
720 year term, one member for a 2-year term, and one member for a 4-
721 year term.

722 (c) Any member is eligible for reappointment.

723 (3) Appointed members may be removed by the Governor for
724 cause. Absence from three consecutive meetings without good
725 cause shall result in automatic removal.

726 (4) All private sector members are subject to confirmation
727 by the Senate at the next regular session of the Legislature.

728 (5) The Governor shall serve as chair of the board of
729 directors. The board of directors shall biennially elect one of
730 its private sector members as vice chair to serve in the absence
731 of the Governor and to perform such other duties as may be
732 designated. The president shall keep a record of the proceedings
733 of the board of directors and shall be the custodian of all
734 books, documents, and papers filed with the board of directors,
735 the minutes of the board of directors, and the official seal of
736 Space Florida.

737 (6) The board of directors shall meet at least four times
738 each year, upon the call of the chair, at the request of the
739 vice chair, or at the request of a majority of the membership. A
740 majority of the total number of current voting directors shall
741 constitute a quorum. The board of directors may take official
742 action by a majority vote of the members present at any meeting
743 at which a quorum is present.

744 (7) Members of the board of directors shall serve without
745 compensation, but members, the president, and staff may be

HB 1489 CS

2006
CS

746 reimbursed for all reasonable, necessary, and actual expenses,
747 as determined by the board of directors of Space Florida
748 pursuant to s. 112.061.

749 (8) Each member of the board of directors of Space Florida
750 who is not otherwise required to file financial disclosure
751 pursuant to s. 8, Art. II of the State Constitution or s.
752 112.3144, shall file disclosure of financial interests pursuant
753 to s. 112.3145.

754 (9) Each member of the board of directors of Space Florida
755 must be a resident of this state. There is created within the
756 Florida Space Authority a board of supervisors consisting of
757 eight regular members, who shall be appointed by the Governor,
758 and two ex officio nonvoting members, one of whom shall be a
759 state senator selected by the President of the Senate and one of
760 whom shall be a state representative selected by the Speaker of
761 the House of Representatives. The Lieutenant Governor, who is
762 the state's space policy leader, shall serve as chair of the
763 board of supervisors, and shall cast the deciding vote if the
764 votes of the eight regular members result in a tie. The board
765 shall elect a vice chair to preside in the absence of the
766 Lieutenant Governor and to perform such other duties as may be
767 designated. All regular members shall be subject to confirmation
768 by the Senate at the next regular session of the Legislature.
769 Existing board members are not prohibited from reappointment.
770 Each of the regular board members must be a resident of the
771 state and must have experience in the aerospace or commercial
772 space industry or in finance or have other significant relevant
773 experience. A private sector legal entity may not have more than

Page 28 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

~~one person serving on the board at any one time. One regular member shall represent organized labor interests, one regular member shall represent minority interests, and four regular members must represent space industry, at least one of whom must also be from a small business, as defined in s. 288.703. For the purpose of this section, "space industry" includes private sector entities engaged in space flight business, as defined in s. 212.031, research and technology development of space-based products and services, space station commercialization, development of spaceport and range technology, remote sensing products and services, space biotechnology, measurement and calibration of space assets, space-related software and information technology development, design and architecture of space-based assets and facilities for manufacturing and other purposes, space-related nanotechnology, space tourism, and other commercial enterprises utilizing uniquely space-based capabilities.~~

~~(2) Each regular member shall serve a term of 4 years or until a successor is appointed and qualified. The term of each such member shall be construed to commence on the date of appointment and to terminate on June 30 of the year of the end of the term. Appointment to the board shall not preclude any such member from holding any other private or public position.~~

~~(3) The ex officio nonvoting legislative members shall serve on the board for 2-year terms.~~

~~(4) Any vacancy on the board shall be filled for the balance of the unexpired term.~~

HB 1489 CS

2006
CS

801 ~~(5) The board shall appoint an executive director.~~
802 ~~Meetings shall be held quarterly or more frequently at the call~~
803 ~~of the chair. A majority of the regular members of the board~~
804 ~~shall constitute a quorum, and a majority vote of such members~~
805 ~~present is necessary for any action taken by the board.~~

806 ~~(6) The Governor has the authority to remove from the~~
807 ~~board any regular member in the manner and for cause as defined~~
808 ~~by the laws of this state and applicable to situations that may~~
809 ~~arise before the board. Unless excused by the chair of the~~
810 ~~board, a regular member's absence from two or more consecutive~~
811 ~~board meetings creates a vacancy in the office to which the~~
812 ~~member was appointed.~~

813 Section 9. Section 331.309, Florida Statutes, is amended
814 to read:

815 331.309 Treasurer; depositories; fiscal agent.--

816 (1) The board shall designate an individual who is a
817 resident of the state, or a qualified public depository as
818 defined in s. 280.02, as treasurer of Space Florida the
819 authority, who shall have charge of the funds of Space Florida
820 the authority. Such funds shall be disbursed only upon the order
821 of or pursuant to the resolution of the board by warrant, check,
822 authorization, or direct deposit pursuant to s. 215.85, signed
823 or authorized by the treasurer or his or her representative or
824 by such other persons as may be authorized by the board. The
825 board may give the treasurer such other or additional powers and
826 duties as the board may deem appropriate and shall establish the
827 treasurer's compensation. The board may require the treasurer to
828 give a bond in such amount, on such terms, and with such

HB 1489 CS

2006
CS

829 sureties as may be deemed satisfactory to the board to secure
830 the performance by the treasurer of his or her powers and
831 duties. The board shall audit or have audited the books of the
832 treasurer at least once a year.

833 (2) The board is authorized to select as depositories in
834 which the funds of the board and of Space Florida ~~the authority~~
835 shall be deposited any qualified public depository as defined in
836 s. 280.02, upon such terms and conditions as to the payment of
837 interest by such depository upon the funds so deposited as the
838 board may deem just and reasonable. ~~Funds of the authority may~~
839 ~~also be deposited with the Florida Commercial Space Financing~~
840 ~~Corporation created by s. 331.407.~~ The funds of Space Florida
841 ~~the authority~~ may be kept in or removed from the State Treasury
842 upon written notification from the chair of the board to the
843 Chief Financial Officer.

844 (3) The board may employ a fiscal agent, who shall be
845 either a resident of the state or a corporation organized under
846 the laws of this or any other state and authorized by such laws
847 to act as such fiscal agent in the state.

848 Section 10. Section 331.310, Florida Statutes, is amended
849 to read:

850 331.310 Powers and duties of the board of directors
851 ~~supervisors. --Except as otherwise provided in this act, all of~~
852 ~~the powers and duties of the authority shall be exercised by and~~
853 ~~through the board of supervisors, including the power and duty~~
854 ~~to:~~

855 (1) The board of directors may: ~~Adopt bylaws, rules,~~
856 ~~resolutions, and orders prescribing the powers, duties, and~~

HB 1489 CS

2006
CS

857 ~~functions of the officers of the authority, the conduct of the~~
858 ~~business of the authority, the maintenance of records, and the~~
859 ~~form of all documents and records of the authority. The board~~
860 ~~may adopt administrative rules and regulations with respect to~~
861 ~~any of the projects of the authority, with notice and public~~
862 ~~hearing.~~

863 ~~(2) Maintain an executive office and authority offices in~~
864 ~~close proximity to Kennedy Space Center.~~

865 ~~(a)~~ (3) Enter, and authorize any agent or employee of Space
866 Florida ~~the authority~~ to enter, upon any lands, waters, and
867 premises, upon giving reasonable notice and due process to the
868 land owner, for the purposes of making surveys, soundings,
869 drillings, appraisals, and examinations necessary to perform its
870 duties and functions. Any such entry shall not be deemed a
871 trespass or an entry that would constitute a taking in an
872 eminent domain proceeding. Space Florida ~~The authority~~ shall
873 make reimbursement for any actual damages to such lands, waters,
874 and premises as a result of such activity.

875 ~~(b)~~ (4) Execute all contracts and other documents, adopt
876 all proceedings, and perform all acts determined by the board to
877 be necessary or desirable to carry out the purposes of this act.
878 The board may authorize one or more members of the board to
879 execute contracts and other documents on behalf of the board or
880 Space Florida ~~the authority~~.

881 ~~(c)~~ (5) Establish and create such departments, committees,
882 or other entities ~~agencies~~ as from time to time the board may
883 deem necessary or desirable in the performance of any acts or
884 other things necessary to the exercise of the powers provided in

Page 32 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

885 this act, and delegate to such departments, boards, or other
886 agencies such administrative duties and other powers as the
887 board may deem necessary or desirable.

888 ~~(6) Appoint a person to act as executive director of the~~
889 ~~authority, having such official title, functions, duties,~~
890 ~~powers, and salary as the board may prescribe.~~

891 (d)(7) Examine, and authorize any officer or agent of
892 Space Florida the authority to examine, the county tax rolls
893 with respect to the assessed valuation of the real and personal
894 property within any spaceport territory.

895 (e)(8) Engage in the planning and implementation of space-
896 related economic and educational development within the state.

897 (f) Provide the strategic direction for the aerospace-
898 related research priorities of the state and its aerospace-
899 related businesses, the scope of research projects for Space
900 Florida, and the timeframe for completion of the projects.

901 (g)(9) Execute intergovernmental agreements and
902 development agreements consistent with prevailing statutory
903 provisions, including, but not limited to, special benefits or
904 tax increment financing initiatives.

905 (h) Finance aerospace business development projects or
906 initiatives using the funds collected pursuant to s.
907 212.20(6)(d).

908 (i)(10) Establish reserve funds for future board
909 operations.

910 (j)(11) Adopt rules pursuant to chapter 120 to carry out
911 the purposes of this act.

912 (2) The board of directors shall:

Page 33 of 88

CODING: Words stricken are deletions; words underlined are additions.

hb1489-02-c2

HB 1489 CS

2006
CS

913 (a) Adopt bylaws, rules, resolutions, and orders
914 prescribing the powers, duties, and functions of Space Florida
915 to conduct the business of Space Florida, the maintenance of
916 records, and the form of all documents and records of Space
917 Florida. The board may adopt rules with respect to any of the
918 projects of Space Florida with notice and a public hearing.

919 (b) Maintain an executive office and Space Florida offices
920 in close proximity to the John F. Kennedy Space Center.

921 (c) Appoint a person to act as the president of Space
922 Florida, having such official title, functions, duties, powers,
923 and salary as the board may prescribe.

924 (d) ~~(12)~~ Abide by all applicable federal labor laws in the
925 construction and day-to-day operations of Space Florida ~~the~~
926 ~~authority~~ and any spaceport. Further, the board shall establish,
927 by rule and regulation, pursuant to chapter 120, policies and
928 procedures for the construction and operation of Space Florida
929 ~~the authority~~ and any spaceport. The said policies and
930 procedures shall be such that when Space Florida ~~the authority~~
931 expends federal funds for construction or operation of any
932 spaceport project, Space Florida ~~the authority~~ will be subject
933 to the federal labor laws observed at the John F. Kennedy Space
934 Center and Cape Canaveral Air Force Station, Florida, applicable
935 as a result of such federal expenditures.

936 (e) ~~(13)~~ Prepare an annual report of operations. The said
937 report shall include, but not be limited to, a balance sheet, an
938 income statement, a statement of changes in financial position,
939 a reconciliation of changes in equity accounts, a summary of
940 significant accounting principles, the auditor's report, a

HB 1489 CS

2006
CS

941 summary of the status of existing and proposed bonding projects,
942 comments from management about the year's business, and
943 prospects for the next year, which shall be submitted each year
944 by December 31 ~~November 30~~ to the Governor, the President of the
945 Senate, the Speaker of the House of Representatives, the
946 minority leader of the Senate, and the minority leader of the
947 House of Representatives.

948 (f) Establish a personnel management system for hiring
949 employees and establishing employee's benefit packages.

950 Personnel of Space Florida are not state employees.

951 ~~(14) Change the name of the authority.~~

952 Section 11. Section 331.3101, Florida Statutes, is amended
953 to read:

954 331.3101 Space Florida ~~Space Authority~~; travel and
955 entertainment expenses.--

956 (1) Notwithstanding the provisions of s. 112.061, Space
957 Florida ~~the authority~~ shall adopt rules by which it may make
958 expenditures by advancement or reimbursement, or a combination
959 thereof, to Space Florida ~~authority~~ officers and employees;
960 reimburse business clients, guests, and authorized persons as
961 defined in s. 112.061(2)(e); and make direct payments to third-
962 party vendors:

963 (a) For travel expenses of such business clients, guests,
964 and authorized persons incurred by Space Florida ~~the authority~~
965 in connection with the performance of its statutory duties, and
966 for travel expenses incurred by state officials and state
967 employees while accompanying such business clients, guests, or

HB 1489 CS

2006
CS

968 authorized persons or when authorized by the board or its
969 designee.

970 (b) For entertainment expenses of such guests, business
971 clients, and authorized persons incurred by Space Florida the
972 ~~authority~~ in connection with the performance of its statutory
973 duties, and for entertainment expenses incurred for Space
974 Florida ~~authority~~ officials and employees when such expenses are
975 incurred while in the physical presence of such business
976 clients, guests, or authorized persons.

977 (2) The rules shall be subject to approval by the Chief
978 Financial Officer before adoption ~~prior to promulgation~~. The
979 rules shall require the submission of paid receipts, or other
980 proof prescribed by the Chief Financial Officer, with any claim
981 for reimbursement, and shall require, as a condition for any
982 advancement, an agreement to submit paid receipts or other proof
983 and to refund any unused portion of the advancement within 15
984 days after the expense is incurred or, if the advancement is
985 made in connection with travel, within 15 days after completion
986 of the travel. However, with respect to an advancement made
987 solely for travel expenses, the rules may allow paid receipts or
988 other proof to be submitted, and any unused portion of the
989 advancement to be refunded, within 30 days after completion of
990 the travel.

991 (3) An annual report shall be made to the Legislature not
992 later than September 1 ~~November 30~~ of each year for the previous
993 fiscal year, which shall consist of a synopsis concisely
994 summarizing all travel, entertainment, and incidental expenses
995 incurred within the United States and, separately, all travel,

Page 36 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

996 entertainment, and incidental expenses incurred outside the
997 United States.

998 (4) A ~~No~~ claim submitted under this section is not ~~shall~~
999 be required to be sworn to before a notary public or other
1000 officer authorized to administer oaths, but any claim authorized
1001 or required to be made under any provision of this section must
1002 ~~shall~~ contain a statement that the expenses were actually
1003 incurred as necessary travel or entertainment expenses in the
1004 performance of official duties of Space Florida ~~the authority~~
1005 and shall be verified by written declaration that it is true and
1006 correct as to every material matter. Any person who willfully
1007 makes and subscribes to any such claim which the person does not
1008 believe to be true and correct as to every material matter or
1009 who willfully aids or assists in, or procures, counsels, or
1010 advises, the preparation or presentation of a claim pursuant to
1011 this section, which claim is fraudulent or false as to any
1012 material matter, whether or not such falsity or fraud is with
1013 the knowledge or consent of the person authorized or required to
1014 present such claim, commits a misdemeanor of the second degree,
1015 punishable as provided in s. 775.082 or s. 775.083. Whoever
1016 receives an advancement or reimbursement by means of a false
1017 claim is civilly liable, in the amount of the overpayment, for
1018 the reimbursement of the public fund from which the claim was
1019 paid.

1020 Section 12. Section 331.311, Florida Statutes, is amended
1021 to read:

1022 331.311 Exercise by Space Florida ~~authority~~ of its powers
1023 within municipalities and other political subdivisions.--Space

Page 37 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

1024 Florida may ~~The authority shall have the power to~~ exercise any
1025 of its rights, powers, privileges, and authority in any and all
1026 portions of any spaceport territory lying within the boundaries
1027 of any municipal corporation or other political subdivision,
1028 heretofore or hereafter created or organized, whose boundaries
1029 lie wholly or partly within the geographical limits of the
1030 spaceport territory, to the same extent and in the same manner
1031 as in areas of the spaceport territory not incorporated as part
1032 of a municipality or other political subdivision. With respect
1033 to any municipal corporation or other political subdivision
1034 whose boundaries lie partly within and partly without the
1035 geographical limits of the spaceport territory, Space Florida
1036 ~~may the authority shall have the power to~~ exercise its rights,
1037 powers, privileges, and authority only within the portion of the
1038 ~~such~~ municipal corporation or other political subdivision lying
1039 within the boundaries of the spaceport territory.

1040 Section 13. Section 331.312, Florida Statutes, is amended
1041 to read:

1042 331.312 Furnishing facilities and services within the
1043 spaceport territory.--Space Florida may ~~The authority shall have~~
1044 ~~the power to~~ construct, develop, create, maintain, and operate
1045 its projects within the geographical limits of the spaceport
1046 territory, including any portions of the spaceport territory
1047 located inside the boundaries of any incorporated municipality
1048 or other political subdivision, and to offer, supply, and
1049 furnish the facilities and services provided for in this act to,
1050 and to establish and collect fees, rentals, and other charges
1051 from, persons, public or private, within the geographical limits

HB 1489 CS

2006
CS

1052 of the spaceport territory and for the use of Space Florida ~~the~~
1053 ~~authority~~ itself.

1054 Section 14. Section 331.313, Florida Statutes, is amended
1055 to read:

1056 331.313 Power of Space Florida ~~the authority~~ with respect
1057 to roads.--Within the territorial limits of any spaceport
1058 territory, Space Florida may ~~the authority has the right to~~
1059 acquire, through purchase or interagency agreement, or as
1060 otherwise provided in law, and to construct, control, and
1061 maintain, roads deemed necessary by Space Florida ~~the authority~~
1062 and connections thereto and extensions thereof now or hereafter
1063 acquired, constructed, or maintained in accordance with
1064 established highway safety standards; provided that, in the
1065 event a road being addressed by Space Florida ~~the authority~~ is
1066 owned by another agency or jurisdiction, Space Florida ~~the~~
1067 ~~authority, before~~ ~~prior to~~ proceeding with the proposed project
1068 or work activity, shall have either coordinated the desired work
1069 with the owning agency or jurisdiction or shall have
1070 successfully executed an interagency agreement with the owning
1071 agency or jurisdiction.

1072 Section 15. Section 331.315, Florida Statutes, is amended
1073 to read:

1074 331.315 Maintenance of projects across rights-of-
1075 way.--Space Florida may ~~The authority shall have the right to~~
1076 construct and operate its projects in, along, or under any
1077 streets, alleys, highways, or other public places or ways, and
1078 across any drain, ditch, canal, floodway, holding basin,
1079 excavation, railroad right-of-way, track, grade, fill, or cut;

Page 39 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

1080 ~~provided, however, Space Florida shall pay that just~~
1081 ~~compensation, including fees, shall be paid by the authority for~~
1082 ~~any damages arising from or private property taken by the~~
1083 ~~exercise of such power.~~

1084 Section 16. Section 331.316, Florida Statutes, is amended
1085 to read:

1086 331.316 Rates, fees, rentals, tolls, fares, and charges;
1087 procedure for adoption and modification; minimum revenue
1088 requirements.--

1089 (1) To recover the costs of the spaceport facility or
1090 system, Space Florida ~~may the authority shall have the power to~~
1091 prescribe, fix, establish, and collect rates, fees, rentals,
1092 tolls, fares, or other charges (hereinafter referred to as
1093 "revenues"), and to revise the same from time to time, for the
1094 facilities and services furnished or to be furnished by Space
1095 Florida ~~the authority~~ and the spaceport, including, but not
1096 limited to, launch pads, ranges, payload assembly and processing
1097 facilities, visitor and tourist facilities, transportation
1098 facilities, and parking and other related facilities, and may
1099 ~~shall have the power to~~ provide for reasonable penalties against
1100 any user or property for any such rates, fees, rentals, tolls,
1101 fares, or other charges that are delinquent.

1102 (2) The board may ~~shall have the power to~~ enter into
1103 contracts for the use of the projects of Space Florida ~~the~~
1104 ~~authority~~ and for the services and facilities furnished or to be
1105 furnished by Space Florida ~~the authority~~, including, but not
1106 limited to, launch services, payload assembly and processing,
1107 and other aerospace-related ~~space-related~~ services, for such

HB 1489 CS

2006
CS

1108 consideration and on such other terms and conditions as the
1109 board may approve. Such contracts, and revenues or service
1110 charges received or to be received by Space Florida the
1111 ~~authority~~ thereunder, may be pledged as security for any of the
1112 bonds of Space Florida ~~the authority~~.

1113 Section 17. Section 331.317, Florida Statutes, is amended
1114 to read:

1115 331.317 Recovery of delinquent charges.--In the event that
1116 any of the rates, fees, rentals, tolls, fares, other charges, or
1117 delinquent penalties shall not be paid as and when due and shall
1118 be in default for 30 days or more, the unpaid balance thereof
1119 and all interest accrued thereon, together with attorney's fees
1120 and costs, may be recovered by Space Florida ~~the authority~~ in a
1121 civil action.

1122 Section 18. Section 331.318, Florida Statutes, is amended
1123 to read:

1124 331.318 Discontinuance of service.--In the event that the
1125 rates, fees, rentals, tolls, fares, or other charges for the
1126 services and facilities of any project are not paid when due,
1127 the board may ~~shall have the power to~~ discontinue and shut off
1128 the same until such rates, fees, rentals, tolls, fares, or other
1129 charges, including interest, penalties, and charges for the
1130 shutting off and discontinuance and the restoration of such
1131 services and facilities, are fully paid. Such delinquent rates,
1132 fees, rentals, tolls, fares, or other charges, together with
1133 interest, penalties, and charges for the shutting off and
1134 discontinuance and the restoration of such services and
1135 facilities, and reasonable attorney's fees and other expenses,

HB 1489 CS

2006
CS

1136 may be recovered by Space Florida ~~the authority~~ by suit in any
1137 court of competent jurisdiction. Space Florida ~~The authority~~ may
1138 also enforce payment of such delinquent rates, fees, rentals,
1139 tolls, fares, or other charges by any other lawful method of
1140 enforcement.

1141 Section 19. Section 331.319, Florida Statutes, is amended
1142 to read:

1143 331.319 Comprehensive planning; building and safety
1144 codes.--The board of directors ~~may supervisors shall have the~~
1145 ~~power to~~:

1146 (1) Adopt, and from time to time review, amend,
1147 supplement, or repeal, a comprehensive general plan for the
1148 physical development of the area within the spaceport territory
1149 in accordance with the objectives and purposes of this act and
1150 consistent with the comprehensive plans of the applicable county
1151 or counties and municipality or municipalities adopted pursuant
1152 to the Local Government Comprehensive Planning and Land
1153 Development Regulation Act, part II of chapter 163.

1154 (2) Prohibit within the spaceport territory the
1155 construction, alteration, repair, removal, or demolition, or the
1156 commencement of the construction, alteration, repair (except
1157 emergency repairs), removal, or demolition, of any building or
1158 structure, including, but not by way of limitation, public
1159 utility poles, lines, pipes, and facilities, without first
1160 obtaining a permit from the board or such other officer or
1161 agency as the board may designate, and to prescribe the
1162 procedure with respect to the obtaining of such permit.

HB 1489 CS

2006
CS

1163 Section 20. Section 331.320, Florida Statutes, is amended
1164 to read:

1165 331.320 Additional powers of board.--The board of
1166 directors may ~~shall have the power~~ within any spaceport
1167 territory ~~to~~:

1168 (1) Adopt regulations to prohibit or control the pollution
1169 of air and water, and require certain location and placement of
1170 electrical power, telephone, and other utility lines, cables,
1171 pipes, and ducts.

1172 (2) Divide the spaceport territory into zones or districts
1173 of such number, shape, and area as the board may deem best
1174 suited to carry out the purposes of this act, and within and for
1175 each such district make regulations and restrictions as provided
1176 for in subsection (1).

1177 Section 21. Section 331.321, Florida Statutes, is amended
1178 to read:

1179 331.321 Federal and other funds and aid.--Space Florida
1180 may ~~The authority is authorized to~~ accept, receive, and receipt
1181 for federal moneys, property, and other moneys or properties,
1182 either public or private, for the acquisition, planning,
1183 operation, construction, enlargement, improvement, maintenance,
1184 equipment, or development of programs, facilities, and sites
1185 therefor, and ~~to~~ comply with the provisions of the laws of the
1186 United States and any rules and regulations made thereunder for
1187 the expenditure of federal moneys.

1188 Section 22. Section 331.322, Florida Statutes, is amended
1189 to read:

HB 1489 CS

2006
CS

1190 331.322 Agreements with municipalities within any
1191 spaceport territory.--The board of directors and the governing
1192 body or bodies of any one or more municipalities located wholly
1193 or partly within any spaceport territory, whether now in
1194 existence or hereafter created, ~~may are authorized to enter into~~
1195 and carry into effect contracts and agreements relating to the
1196 common powers, duties, and functions of the board and other
1197 officers, agents, and employees of Space Florida ~~the authority~~,
1198 and the respective governing body or bodies of one or more such
1199 municipalities, and their respective officers, agents, and
1200 employees, to the end that there may be effective cooperation
1201 between and coordination of the efforts of such municipality or
1202 municipalities and Space Florida ~~the authority~~ in discharging
1203 their common functions, powers, and duties and in rendering
1204 services to the respective residents and property owners of such
1205 municipality or municipalities and Space Florida ~~the authority~~.
1206 The board and the governing body or bodies of one or more such
1207 municipalities are further authorized to enter into and carry
1208 into effect contracts and agreements for the performance of any
1209 of their common functions, powers, and duties by a central
1210 agency or common agent of the contracting parties.

1211 Section 23. Section 331.323, Florida Statutes, is amended
1212 to read:

1213 331.323 Cooperative agreements with the state, counties,
1214 and municipalities.--

1215 (1) The state and the counties, municipalities, and other
1216 political subdivisions, public bodies, and agencies thereof, or
1217 any of them, whether now existing or hereafter created, are

HB 1489 CS

2006
CS

1218 authorized to aid and cooperate with Space Florida ~~the authority~~
1219 in carrying out any of the purposes and projects of Space
1220 Florida ~~the authority~~, to enter into cooperative agreements with
1221 Space Florida ~~the authority~~, to provide in any such cooperative
1222 agreement for the making of loans, gifts, grants, or
1223 contributions to Space Florida ~~the authority~~ and the granting
1224 and conveyance to Space Florida ~~the authority~~ of real or
1225 personal property of any kind or nature, or any interest
1226 therein, for the carrying out of the purpose and projects of
1227 Space Florida ~~the authority~~; to covenant in any such cooperative
1228 agreement to pay all or any part of the costs of acquisition,
1229 planning, development, construction, reconstruction, extension,
1230 improvement, operation, and maintenance of any projects of Space
1231 Florida ~~the authority~~; and to pay all or any part of the
1232 principal and interest on any bonds of Space Florida ~~the~~
1233 ~~authority~~.

1234 (2) The state and the counties, municipalities, and other
1235 political subdivisions, public bodies, and agencies thereof, or
1236 any of them, whether now existing or hereafter created, and
1237 Space Florida ~~the authority created by this act~~, are further
1238 authorized to enter into cooperative agreements to provide for
1239 the furnishing by Space Florida ~~the authority~~ to the state or
1240 any county, municipality, or other political subdivision, public
1241 body, or agency thereof of any of the facilities and services of
1242 Space Florida ~~the authority~~, or by the state or any county,
1243 municipality, or other political subdivision, public body, or
1244 agency thereof to Space Florida ~~the authority~~ and to persons
1245 within the spaceport territory of facilities and services of the

Page 45 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

1246 type that Space Florida ~~the authority~~ is authorized to furnish
1247 or undertake, or such other facilities and services as may be
1248 determined necessary or desirable by the board for the carrying
1249 out of the purposes of this act. Without limitation of the
1250 foregoing, such cooperative agreements may provide for the
1251 furnishing by any county, municipality, or other political
1252 subdivision of fire and police protection for Space Florida ~~the~~
1253 ~~authority~~ and persons and property within Space Florida ~~the~~
1254 ~~authority~~, and for the providing to Space Florida ~~the authority~~
1255 of any services deemed necessary or desirable by the board for
1256 the proper functioning of Space Florida ~~the authority~~.

1257 (3) Without limitation of the foregoing, the board may
1258 undertake and finance any of the projects of Space Florida ~~the~~
1259 ~~authority~~, in whole or in part, jointly with any municipality or
1260 municipalities, now existing or hereafter created, or in any
1261 other manner combine the projects of Space Florida ~~the authority~~
1262 with the projects of such municipality or municipalities.

1263 (4) Any agreement of the type authorized by this section
1264 may be made and entered into under ~~pursuant to~~ this act for such
1265 time or times, not exceeding 40 years.

1266 Section 24. Section 331.324, Florida Statutes, is amended
1267 to read:

1268 331.324 Contracts, grants, and contributions.--Space
1269 Florida may ~~The authority shall have the power to~~ make and enter
1270 all contracts and agreements necessary or incidental to the
1271 performance of the functions of Space Florida ~~the authority~~ and
1272 the execution of its powers, and to contract with, and to accept
1273 and receive grants or loans of money, material, or property

Page 46 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

1274 from, any person, private or public, as the board shall
1275 determine to be necessary or desirable to carry out the purposes
1276 of this act, and in connection with any such contract, grant, or
1277 loan to stipulate and agree to such covenants, terms, and
1278 conditions as the board shall deem appropriate.

1279 Section 25. Section 331.325, Florida Statutes, is amended
1280 to read:

1281 331.325 Environmental permits.--Space Florida ~~The~~
1282 ~~authority~~ shall obtain required environmental permits in
1283 accordance with federal and state law and shall comply with the
1284 provisions of chapter 380.

1285 Section 26. Section 331.326, Florida Statutes, is amended
1286 to read:

1287 331.326 Information relating to trade secrets
1288 confidential.--The records of Space Florida ~~the authority~~
1289 regarding matters encompassed by this act are public records
1290 subject to the provisions of chapter 119. Any information held
1291 by Space Florida ~~the authority~~ which is a trade secret, as
1292 defined in s. 812.081, including trade secrets of Space Florida
1293 ~~the authority~~, any spaceport user, or the space industry
1294 business, is confidential and exempt from the provisions of s.
1295 119.07(1) and s. 24(a), Art. I of the State Constitution and may
1296 not be disclosed. If Space Florida ~~the authority~~ determines that
1297 any information requested by the public will reveal a trade
1298 secret, it shall, in writing, inform the person making the
1299 request of that determination. The determination is a final
1300 order as defined in s. 120.52. Any meeting or portion of a
1301 meeting of Space Florida's ~~the authority's~~ board of ~~supervisors~~

HB 1489 CS

2006
CS

1302 is exempt from the provisions of s. 286.011 and s. 24(b), Art. I
1303 of the State Constitution when the board is discussing trade
1304 secrets. Any public record generated during the closed portions
1305 of the such meetings, such as minutes, tape recordings, and
1306 notes, is confidential and exempt from the provisions of s.
1307 119.07(1) and s. 24(a), Art. I of the State Constitution.

1308 Section 27. Section 331.327, Florida Statutes, is amended
1309 to read:

1310 331.327 Foreign trade zone.--Space Florida may The
1311 ~~authority shall have the power to~~ apply to the Federal
1312 Government for a grant allowing the designation of any spaceport
1313 territory as a foreign trade zone pursuant to ss. 288.36 and
1314 288.37. However, the designation of any spaceport territory as a
1315 foreign trade zone does ~~shall not be deemed to~~ authorize an
1316 exemption from any tax imposed by the state or by any political
1317 subdivision, agency, or instrumentality thereof.

1318 Section 28. Section 331.328, Florida Statutes, is amended
1319 to read:

1320 331.328 Sovereign immunity.--Space Florida ~~The authority~~
1321 shall be granted sovereign immunity in the same manner as the
1322 state under the laws and Constitution of the State of Florida.
1323 The state, by this section, hereby waives the sovereign immunity
1324 granted to the same extent as waived by the state under state
1325 law.

1326 Section 29. Section 331.329, Florida Statutes, is amended
1327 to read:

1328 331.329 Changing boundary lines; annexation and exclusion
1329 of lands; creation of municipalities within the geographical

HB 1489 CS

2006
CS

1330 limits of any spaceport territory; limitations on the furnishing
1331 of services within annexed areas.--

1332 (1) The board of directors may at any time strike out or
1333 correct the description of any land within or claimed to be
1334 within the boundary lines of any spaceport territory upon the
1335 written consent of the owners of all the land that would be
1336 included or excluded from the boundary lines of any spaceport
1337 territory or otherwise affected by the taking of such action,
1338 and of the owners of not less than the majority in acreage of
1339 all lands within any spaceport territory.

1340 (a) The board may enlarge the geographical limits of any
1341 spaceport territory to include any lands not then within any
1342 spaceport territory:

1343 1. Upon the written consent of the owners of all the land
1344 to be included in any spaceport territory and of the owners of
1345 not less than a majority in acreage of all the land then within
1346 any spaceport territory; or

1347 2. By resolution of the board approved at a special
1348 election called for such purpose, by vote of a majority of
1349 freeholders residing within the area to be annexed and a
1350 majority of freeholders residing within any spaceport territory.

1351 (b) The board of directors may contract the geographical
1352 limits of any spaceport territory so as to exclude from any
1353 spaceport territory any land then within any spaceport
1354 territory:

1355 1. Upon the written consent of the owners of all the land
1356 to be so excluded and of the owners of not less than a majority

HB 1489 CS

2006
CS

1357 in acreage of all the land then within any spaceport territory;
1358 or

1359 2. By resolution of the board approved at a special
1360 election called for such purpose, by vote of a majority of
1361 freeholders residing within the area to be excluded and a
1362 majority of the freeholders residing within any spaceport
1363 territory.

1364 (2) Land, including property situated thereon, added to
1365 any spaceport territory in the manner provided in subsection (1)
1366 shall from the time of its inclusion within such spaceport
1367 territory be subject to all assessments thereafter levied and
1368 assessed on all other land or property of any spaceport
1369 territory similarly situated. Land, including property situated
1370 thereon, excluded from any spaceport territory in the manner
1371 provided in subsection (1) shall from the date of such exclusion
1372 be exempt from assessments thereafter imposed by Space Florida
1373 ~~the authority~~ but shall not be exempt from assessments
1374 theretofore levied or due with respect to such land or property,
1375 or from subsequent installments of assessments theretofore
1376 levied or assessed with respect thereto, and such assessments
1377 may be enforced and collected by or on behalf of Space Florida
1378 ~~the authority~~ in the same manner as if such land or property
1379 continued to be within the geographical limits of any spaceport
1380 territory.

1381 (3) In the event that the geographical limits of any
1382 spaceport territory as set forth in s. 331.304 are revised so as
1383 to include within any spaceport territory any areas not
1384 presently contained within any spaceport territory, Space

HB 1489 CS

2006
CS

1385 Florida may ~~the authority shall~~ not engage in the business of
1386 furnishing electric power for sale in such annexed area, unless
1387 Space Florida ~~the authority~~ shall offer to purchase from any
1388 person who is at the time engaged in the business of making,
1389 generating, or distributing electricity for sale within such
1390 annexed area, such portion of its electric plant and property
1391 suitable and used for such business in connection therewith as
1392 lies within the limits of such annexed area, in a manner
1393 consistent with law.

1394 (4) Space Florida ~~The authority~~ shall designate new launch
1395 pads outside the present designated spaceport territories by
1396 statutory amendment of s. 331.304.

1397 Section 30. Section 331.331, Florida Statutes, is amended
1398 to read:

1399 331.331 Revenue bonds.--

1400 (1) Revenue bonds issued by Space Florida ~~the authority~~
1401 shall not be deemed revenue bonds issued by the state or its
1402 agencies for purposes of s. 11, Art. VII of the State
1403 Constitution and ss. 215.57-215.83. Space Florida ~~The authority~~
1404 shall include in its annual report to the Governor and
1405 Legislature, as provided in s. 331.310, a summary of the status
1406 of existing and proposed bonding projects.

1407 (2) The issuance of revenue bonds may be secured by or
1408 payable from the gross or net pledge of the revenues to be
1409 derived from any project or combination of projects, from the
1410 rates, fees, rentals, tolls, fares, or other charges to be
1411 collected from the users of any project or projects; from any
1412 revenue-producing undertaking or activity of Space Florida ~~the~~

Page 51 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

1413 ~~authority~~; or from any source of pledged security. Such bonds
1414 shall not constitute an indebtedness of Space Florida ~~the~~
1415 ~~authority~~ unless such bonds are additionally secured by the full
1416 faith and credit of Space Florida ~~the authority~~. Bonds issued by
1417 Space Florida ~~the authority~~ are not secured by the full faith
1418 and credit of the State of Florida and do not constitute an
1419 obligation, either general or special, thereof.

1420 (3) Any two or more projects may be combined and
1421 consolidated into a single project, and may thereafter be
1422 operated and maintained as a single project. The revenue bonds
1423 authorized herein may be issued to finance any one or more such
1424 projects separately, or to finance two or more such projects,
1425 regardless whether or not such projects have been combined and
1426 consolidated into a single project. If the board deems it
1427 advisable, the proceedings authorizing such revenue bonds may
1428 provide that Space Florida ~~the authority~~ may thereafter combine
1429 the projects then being financed or theretofore financed with
1430 other projects to be subsequently financed by Space Florida ~~the~~
1431 ~~authority~~ shall be on a parity with the revenue bonds then being
1432 issued, all on such terms, conditions, and limitations as shall
1433 be provided, and may further provide that the revenues to be
1434 derived from the subsequent projects shall at the time of the
1435 issuance of such parity revenue bonds be also pledged to the
1436 holders of any revenue bonds theretofore issued to finance the
1437 revenue undertakings which are later combined with such
1438 subsequent projects. Space Florida ~~The authority~~ may pledge for
1439 the security of the revenue bonds a fixed amount, without regard
1440 to any fixed proportion of the gross revenues of any project.

Page 52 of 88

CODING: Words stricken are deletions; words underlined are additions.

hb1489-02-c2

HB 1489 CS

2006
CS

1441 Section 31. Section 331.333, Florida Statutes, is amended
1442 to read:

1443 331.333 Refunding bonds.--Space Florida ~~The authority~~
1444 through its board may ~~shall have the power to~~ issue bonds to
1445 provide for the retirement or refunding of any bonds or
1446 obligations of Space Florida ~~the authority~~ that at the time of
1447 such issuance are or subsequently thereto become due and
1448 payable, or that at the time of issuance have been called or are
1449 or will be subject to call for redemption within 10 years
1450 thereafter, or the surrender of which can be procured from the
1451 holders thereof at prices satisfactory to the board. Refunding
1452 bonds may be issued at any time when in the judgment of the
1453 board such issuance will be advantageous to Space Florida ~~the~~
1454 ~~authority~~. The provisions of this act pertaining to bonds of
1455 Space Florida ~~the authority~~ shall, unless the context otherwise
1456 requires, govern the issuance of refunding bonds, the form and
1457 other details thereof, the rights of the holders thereof, and
1458 the duties of the board with respect to the same.

1459 Section 32. Section 331.334, Florida Statutes, is amended
1460 to read:

1461 331.334 Pledging assessments and other revenues and
1462 properties as additional security on bonds.--Space Florida ~~The~~
1463 ~~authority~~ may pledge as additional security for the payment of
1464 any of the bonds of Space Florida ~~the authority~~ its full faith
1465 and credit, and provide that such bonds shall be payable as to
1466 both principal and interest, and as to any reserve or other
1467 funds provided therefor, to the full extent that any revenues as
1468 defined in this act, assessments, or other funds, or any

HB 1489 CS

2006
CS

1469 combination thereof, pledged therefor are insufficient for the
1470 full payment of the same, and provided further that no bonds
1471 shall be issued to the payment of which the full faith and
1472 credit of Space Florida ~~the authority~~ is pledged unless approved
1473 at an election in the manner provided by law. Space Florida ~~The~~
1474 ~~authority~~ by resolution of the board may also pledge as
1475 additional security for said bonds the revenues from any project
1476 of Space Florida ~~the authority~~, utility service, assessments,
1477 and any other sources of revenue or funds, or any combination of
1478 the foregoing, and may pledge or mortgage any of the properties,
1479 rights, interest, or other assets of Space Florida ~~the~~
1480 ~~authority~~. Bonds issued by Space Florida ~~the authority~~ are not
1481 secured by the full faith and credit of the State of Florida and
1482 do not constitute an obligation, either general or special,
1483 thereof. The board may also provide with respect to any bonds of
1484 Space Florida ~~the authority~~ that such bonds shall be payable, in
1485 whole or in part, as to principal amount or interest, or both,
1486 out of rates, fees, rentals, tolls, fares, or other charges
1487 collected with respect to any of the projects of Space Florida
1488 ~~the authority~~.

1489 Section 33. Section 331.335, Florida Statutes, is amended
1490 to read:

1491 331.335 Lien of pledges.--All pledges of revenues and
1492 assessments made pursuant to the provisions of this act shall be
1493 valid and binding from the time when such pledges are made. All
1494 such revenues and assessments so pledged and thereafter
1495 collected shall immediately be subject to the lien of such
1496 pledges without any physical delivery thereof or further action,

Page 54 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

1497 and the lien of such pledges shall be valid and binding as
1498 against all parties having claims of any kind in tort, contract,
1499 or otherwise against Space Florida ~~the authority~~, irrespective
1500 of whether such parties have notice thereof.

1501 Section 34. Section 331.336, Florida Statutes, is amended
1502 to read:

1503 331.336 Issuance of bond anticipation notes.--In addition
1504 to the other powers provided for in this act and not in
1505 limitation thereof, Space Florida ~~may the authority shall have~~
1506 ~~the power~~, at any time from time to time after the issuance of
1507 any bonds of Space Florida ~~the authority shall~~ have been
1508 authorized, ~~to~~ borrow money for the purposes for which such
1509 bonds are to be issued in anticipation of the receipt of the
1510 proceeds of the sale of such bonds and ~~to~~ issue bond
1511 anticipation notes in a principal amount not in excess of the
1512 authorized maximum amount of such bond issue. Such notes shall
1513 be in such denomination or denominations, bear interest at such
1514 rate or rates, mature at such time or times, be renewable for
1515 such additional term or terms, and be in such form and executed
1516 in such manner as the board shall prescribe. Such notes may be
1517 sold at public sale, or if such notes shall be renewable notes,
1518 may be exchanged for notes then outstanding on such terms as the
1519 board shall determine. Such notes shall be paid from the
1520 proceeds of such bonds when issued. The board may in its
1521 discretion, in lieu of retiring the notes by means of bonds,
1522 retire them by means of current revenues or from any assessments
1523 levied for the payment of such bonds, but in such event a like
1524 amount of the bonds authorized shall not be issued.

Page 55 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

1525 Section 35. Section 331.337, Florida Statutes, is amended
1526 to read:

1527 331.337 Short-term borrowing.--Space Florida ~~The authority~~
1528 at any time may obtain loans, in such amount and on such terms
1529 and conditions as the board may approve, for the purpose of
1530 paying any of the expenses of Space Florida ~~the authority~~ or any
1531 costs incurred or that may be incurred in connection with any of
1532 the projects of Space Florida ~~the authority~~, which loans shall
1533 have such term or terms, be renewable for such term or terms,
1534 bear interest at such rate or rates, and be payable from and
1535 secured by a pledge of such funds, revenues, and assessments as
1536 the board may determine. For the purpose of defraying such costs
1537 and expenses, Space Florida ~~the authority~~ may issue negotiable
1538 notes, warrants, or other evidences of debt signed on behalf of
1539 Space Florida ~~the authority~~ by any one of the board, such notes
1540 or other evidences of indebtedness to be payable at such time or
1541 times, to bear interest at such rate or rates, and to be sold or
1542 discounted at such price or prices and on such term or terms as
1543 the board may deem advisable. The board ~~may shall have the right~~
1544 ~~to~~ provide for the payment thereof by pledging the whole or any
1545 part of the funds, revenues, and assessments of Space Florida
1546 ~~the authority~~.

1547 Section 36. Section 331.338, Florida Statutes, is amended
1548 to read:

1549 331.338 Trust agreements.--In the discretion of the board,
1550 any issue of bonds may be secured by a trust agreement by and
1551 between Space Florida ~~the authority~~ and a corporate trustee
1552 which may be any trust company or bank having the powers of a

HB 1489 CS

2006
CS

1553 trust company within or without the state. The resolution
1554 authorizing the issuance of the bonds or such trust agreement
1555 may pledge the revenues to be received from any projects of
1556 Space Florida ~~the authority~~ and any other authorized moneys to
1557 be used for the repayment of bonds, and may contain such
1558 provisions for protecting and enforcing the rights and remedies
1559 of the bondholders as the board may approve, including without
1560 limitation covenants setting forth the duties of Space Florida
1561 ~~the authority~~ in relation to the acquisition, planning,
1562 development, construction, reconstruction, improvement,
1563 maintenance, repair, operation, and insurance of any projects,
1564 the fixing and revision of the rates, fees, rentals, tolls,
1565 fares, and charges, and the custody, safeguarding, and
1566 application of all moneys, and for the employment of consulting
1567 engineers in connection with such acquisition, planning,
1568 development, construction, reconstruction, improvement,
1569 maintenance, repair, or operation. It shall be lawful for any
1570 bank or trust company incorporated under the laws of the state
1571 or the United States which may act as a depository of the
1572 proceeds of bonds or of revenues to furnish such indemnifying
1573 bonds or to pledge such securities as may be required by Space
1574 Florida ~~the authority~~. Such resolution or trust agreement may
1575 set forth the rights and remedies of the bondholders and of the
1576 trustee, if any, and may restrict the individual right of action
1577 by bondholders. The board may provide for the payment of the
1578 proceeds of the sale of the bonds and the revenues of any
1579 project to such officer, board, or depository as it may
1580 designate for the custody thereof, and for the method of

Page 57 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out the provisions of such resolution or trust agreement may be treated as part of the cost of the project to which such trust agreement pertains.

Section 37. Section 331.339, Florida Statutes, is amended to read:

331.339 Sale of bonds.--Bonds may be sold in blocks or installments at different times, or an entire issue or series may be sold at one time. Bonds may only be sold at public sale after being advertised and publicly noticed, unless Space Florida ~~the authority~~ has previously complied with the provisions of s. 218.385. Bonds may be sold or exchanged for refunding bonds. Special assessment and revenue bonds may be delivered as payment by Space Florida ~~the authority~~ of the purchase price or lease of any project or part thereof, or a combination of projects or parts thereof, or as the purchase price of, or exchange for, any property, real, personal, or mixed, including franchises, or services rendered by any contractor, engineer, or other person, all at one time or in blocks from time to time, in such manner and upon such terms as the board in its discretion shall determine. The price or prices for any bonds sold, exchanged, or delivered may be:

(1) The money paid for the bonds.

(2) The principal amount, plus accrued interest to date of redemption or exchange, of outstanding obligations exchanged for refunding bonds.

HB 1489 CS

2006
CS

1608 (3) In the case of special assessment or revenue bonds,
1609 the amount of any indebtedness to contractors or other persons
1610 paid with such bonds, or the fair value of any properties
1611 exchanged for the bonds, as determined by the board.

1612 Section 38. Section 331.340, Florida Statutes, is amended
1613 to read:

1614 331.340 Authorization and form of bonds.--Bonds may be
1615 authorized by resolution or resolutions of the board which shall
1616 be adopted by a majority of all of the members thereof then in
1617 office and present at the meeting at which the resolution or
1618 resolutions are adopted and shall be approved as provided in s.
1619 331.305. The resolution or resolutions of the board may be
1620 adopted at the same meeting at which they are introduced, and
1621 shall be published and noticed. The board may by resolution
1622 authorize the issuance of bonds, fix the aggregate amount of
1623 bonds to be issued, the purpose or purposes for which the moneys
1624 derived therefrom shall be expended, the rate or rates of
1625 interest, the denomination of the bonds, whether or not the
1626 bonds are to be issued in one or more series, the date or dates
1627 thereof, the date or dates of maturity, which shall not exceed
1628 40 years from their respective dates of issuance, the medium of
1629 payment, the place or places within or without the state where
1630 payment shall be made, registration privileges, redemption terms
1631 and privileges (whether with or without premium), the manner of
1632 execution, the form of the bonds including any interest coupons
1633 to be attached thereto, the manner of execution of bonds and
1634 coupons, and any and all other terms, covenants, and conditions
1635 thereof, and the establishment of reserve or other funds. Such

HB 1489 CS

2006
CS

authorizing resolution may further provide that such bonds may be executed manually or by engraved, lithographed, or facsimile signature, provided that where signatures are engraved, lithographed, or facsimile no bond shall be valid unless countersigned by a registrar or other officer designated by appropriate resolution of the board. The seal of Space Florida ~~the authority~~ may be affixed, lithographed, engraved, or otherwise reproduced in facsimile on such bonds. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes the same as if the officer had remained in office until such delivery.

Section 39. Section 331.343, Florida Statutes, is amended to read:

331.343 Defeasance.--The board may make such provision with respect to the defeasance of the right, title, and interest of the holders of any of the bonds and obligations of Space Florida ~~the authority~~ in any revenues, funds, or other properties by which such bonds are secured as the board deems appropriate and, without limitation on the foregoing, may provide that when such bonds or obligations become due and payable or shall have been called for redemption, and the whole amount of the principal and the interest and premium, if any, due and payable upon the bonds or obligations when outstanding shall be paid, or sufficient moneys or direct obligations of the United States Government the principal of and the interest on

Page 60 of 88

CODING: Words stricken are deletions; words underlined are additions.

hb1489-02-c2

HB 1489 CS

2006
CS

1664 which when due will provide sufficient moneys, shall be held or
1665 deposited in trust for such purpose, and provision shall also be
1666 made for paying all other sums payable in connection with such
1667 bonds or other obligations, then and in such event the right,
1668 title, and interest of the holders of the bonds in any revenues,
1669 funds, or other properties by which such bonds are secured shall
1670 thereupon cease, terminate, and become void; and the board may
1671 apply any surplus in any sinking fund established in connection
1672 with such bonds or obligations and all balances remaining in all
1673 other funds or accounts other than money held for the redemption
1674 or payment of the bonds or other obligations to any lawful
1675 purpose of Space Florida ~~the authority~~ as the board shall
1676 determine.

1677 Section 40. Section 331.345, Florida Statutes, is amended
1678 to read:

1679 331.345 Covenants.--Any resolution authorizing the
1680 issuance of bonds may contain such covenants as the board may
1681 deem advisable and all such covenants shall constitute valid and
1682 legally binding and enforceable contracts between Space Florida
1683 ~~the authority~~ and the bondholders, regardless of the time of
1684 issuance thereof. Such covenants may include, without
1685 limitation, covenants concerning the disposition of the bond
1686 proceeds, the use and disposition of project revenues, the
1687 pledging of revenues, and assessments, the obligations of Space
1688 Florida ~~the authority~~ with respect to the operation of the
1689 project and the maintenance of adequate project revenues, the
1690 issuance of additional bonds, the appointment, powers, and
1691 duties of trustees and receivers, the acquisition of outstanding

Page 61 of 88

CODING: Words stricken are deletions; words underlined are additions.

hb1489-02-c2

HB 1489 CS

2006
CS

bonds and obligations, restrictions on the establishing of competing projects or facilities, restrictions on the sale or disposal of the assets and property of Space Florida ~~the authority~~, the priority of assessment liens, the priority of claims by bondholders on the taxing power of Space Florida ~~the authority~~, the maintenance of deposits to assure the payment of revenues by users of spaceport facilities and services, the discontinuance of Space Florida ~~authority~~ services by reason of delinquent payments, acceleration upon default, the execution of necessary instruments, the procedure for amending or abrogating covenants with the bondholders, and such other covenants as may be deemed necessary or desirable for the security of the bondholders.

Section 41. Section 331.346, Florida Statutes, is amended to read:

331.346 Validity of bonds; validation proceedings.--Any bonds issued by Space Florida ~~the authority~~ shall be incontestable in the hands of bona fide purchasers or holders for value and shall not be invalid because of any irregularity or defect in the proceedings for the issue and sale thereof. Prior to the issuance of any bonds, Space Florida ~~the authority~~ shall publish a notice at least once in a newspaper or newspapers published or of general circulation in the appropriate counties in the state, stating the date of adoption of the resolution authorizing such obligations, the amount, maximum rate of interest, and maturity of such obligations, and the purpose in general terms for which such obligations are to be issued, and further stating that no action or proceeding

Page 62 of 88

CODING: Words stricken are deletions; words underlined are additions.

hb1489-02-c2

HB 1489 CS

2006
CS

1720 questioning the validity of such obligations or of the
1721 proceedings authorizing the issuance thereof, or of any
1722 covenants made therein, must be instituted within 20 days after
1723 the first publication of such notice, or the validity of such
1724 obligations, proceedings, and covenants shall not be thereafter
1725 questioned in any court whatsoever. If no such action or
1726 proceeding is so instituted within such 20-day period, then the
1727 validity of such obligations, proceedings, and covenants shall
1728 be conclusive, and all persons or parties whatsoever shall be
1729 forever barred from questioning the validity of such
1730 obligations, proceedings, or covenants in any court whatsoever.

1731 Section 42. Section 331.347, Florida Statutes, is amended
1732 to read:

1733 331.347 Act furnishes full authority for issuance of
1734 bonds.--This act constitutes full and complete authority for the
1735 issuance of bonds and the exercise of the powers of Space
1736 Florida ~~the authority~~ provided herein. Any and all bonds issued
1737 by Space Florida ~~the authority~~ shall not be secured by the full
1738 faith and credit of the State of Florida and do not constitute
1739 an obligation, either general or special, thereof.

1740 Section 43. Section 331.348, Florida Statutes, is amended
1741 to read:

1742 331.348 Investment of funds.--The board may in its
1743 discretion invest funds of Space Florida ~~the authority~~ through
1744 the Chief Financial Officer or in:

1745 (1) Direct obligations of or obligations guaranteed by the
1746 United States or for the payment of the principal and interest
1747 of which the faith and credit of the United States is pledged;

HB 1489 CS

2006
CS

1748 (2) Bonds or notes issued by any of the following federal
1749 agencies: Bank for Cooperatives; federal intermediate credit
1750 banks; federal home loan bank system; federal land banks; or the
1751 Federal National Mortgage Association (including debentures or
1752 participating certificates issued by such association);

1753 (3) Public housing bonds issued by public housing
1754 authorities and secured by a pledge or annual contributions
1755 under an annual contribution contract or contracts with the
1756 United States;

1757 (4) Bonds or other interest-bearing obligations of any
1758 county, district, city, or town located in the state for which
1759 the full faith and credit of such political subdivision is
1760 pledged;

1761 (5) Any investment authorized for insurers by ss. 625.306-
1762 625.316 and amendments thereto; or

1763 (6) Any investment authorized under s. 17.57 and
1764 amendments thereto.

1765 Section 44. Section 331.349, Florida Statutes, is amended
1766 to read:

1767 331.349 Fiscal year of Space Florida ~~the authority~~.--The
1768 board may ~~has the power to~~ establish and from time to time
1769 redetermine the fiscal year of Space Florida ~~the authority~~.
1770 Unless the board otherwise provides, Space Florida's ~~the~~
1771 ~~authority's~~ fiscal year shall be July 1 through June 30.

1772 Section 45. Section 331.350, Florida Statutes, is amended
1773 to read:

1774 331.350 Insurance coverage of Space Florida ~~the authority~~;
1775 safety program.--

HB 1489 CS

2006
CS

1776 (1) Notwithstanding any other provision of law, the State
1777 Risk Management Trust Fund established under s. 284.30 may ~~shall~~
1778 not insure buildings and property owned or leased by Space
1779 Florida ~~the authority~~.

1780 (2) Notwithstanding any other provision of law, the State
1781 Risk Management Trust Fund established under s. 284.30 may ~~shall~~
1782 not insure against any liability of Space Florida ~~the authority~~.

1783 (3) Space Florida ~~The authority~~ shall establish a safety
1784 program. The safety program shall include:

1785 (a) The development and implementation of a loss
1786 prevention program which shall consist of a comprehensive
1787 ~~authority-wide~~ safety program for all of Space Florida,
1788 including a statement, established by the board of directors
1789 ~~supervisors~~, of safety policy and responsibility.

1790 (b) Provision for regular and periodic facility and
1791 equipment inspections.

1792 (c) Investigation of job-related employee accidents and
1793 other accidents occurring on the premises of Space Florida ~~the~~
1794 ~~authority~~ or within areas of its jurisdiction.

1795 (d) Establishment of a program to promote increased safety
1796 awareness among employees, agents, and subcontractors of Space
1797 Florida ~~the authority~~.

1798 (4) (a) Space Florida ~~The authority~~ shall, if available,
1799 secure insurance coverage within reasonable limits for liability
1800 which may arise as a consequence of its responsibilities.

1801 (b) Space Florida ~~The authority~~ shall, if available, and
1802 if cost-effective, secure insurance coverage on its buildings,
1803 facilities, and property at reasonable levels.

HB 1489 CS

2006
CS

1804 (c) Space Florida ~~The authority~~, with respect to the
1805 purchase of insurance, shall be subject to the applicable
1806 provisions of chapter 287 and other applicable law.

1807 Section 46. Section 331.351, Florida Statutes, is amended
1808 to read:

1809 331.351 Participation by women, minorities, and socially
1810 and economically disadvantaged business enterprises
1811 encouraged.--It is the intent of the Legislature and the public
1812 policy of this state that women, minorities, and socially and
1813 economically disadvantaged business enterprises be encouraged to
1814 participate fully in all phases of economic and community
1815 development. Accordingly, to achieve such purpose, Space Florida
1816 ~~the authority~~ shall, in accordance with applicable state and
1817 federal law, involve and utilize women, minorities, and socially
1818 and economically disadvantaged business enterprises in all
1819 phases of the design, development, construction, maintenance,
1820 and operation of spaceports developed under this act.

1821 Section 47. Section 331.354, Florida Statutes, is amended
1822 to read:

1823 331.354 Tax exemption.--The exercise of the powers granted
1824 by this act in all respects shall be for the benefit of the
1825 people of the state, for the increase of their industry and
1826 prosperity, for the improvement of their health and living
1827 conditions, and for the provision of gainful employment and
1828 shall constitute the performance of essential public functions.
1829 Space Florida is ~~The authority shall~~ not be required to pay any
1830 taxes on any project or any other property owned by Space
1831 Florida ~~the authority~~ under the provisions of this act or upon

Page 66 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

1832 the income therefrom. The bonds issued under ~~the provisions of~~
1833 this act or upon the income therefrom (including any profit made
1834 on the sale thereof), and all notes, mortgages, security
1835 agreements, letters of credit, or other instruments which arise
1836 out of or are given to secure the repayment of bonds issued in
1837 connection with a project financed under this act, shall at all
1838 times be free from taxation by the state or any local unit,
1839 political subdivision, or other instrumentality of the state.
1840 ~~Nothing in~~ This section, however, does not exempt ~~shall be~~
1841 ~~construed as exempting~~ from taxation or assessments the
1842 leasehold interest of a lessee in any project or any other
1843 property or interest owned by the lessee. The exemption granted
1844 by this section is ~~shall~~ not be applicable to any tax imposed by
1845 chapter 220 on interest, income, or profits on debt obligations
1846 owned by corporations.

1847 Section 48. Section 331.355, Florida Statutes, is amended
1848 to read:

1849 331.355 Use of name; ownership rights to intellectual
1850 property.--

1851 (1) (a) The corporate name of a corporation incorporated or
1852 authorized to transact business in this state, or the name of
1853 any person or business entity transacting business in this
1854 state, may not use the words "Space Florida," "Florida Space
1855 Authority," "Florida Aerospace Finance Corporation," "Florida
1856 Space Research Institute," "spaceport Florida," or "Florida
1857 spaceport" in its name unless Space Florida ~~the authority~~ gives
1858 written approval for such use.

HB 1489 CS

2006
CS

(b) The Department of State may dissolve, pursuant to s. 607.1421, any corporation that violates paragraph (a).

(2) Notwithstanding any provision of chapter 286, the legal title and every right, interest, claim, or demand of any kind in and to any patent, trademark, copyright, certification mark, or other right acquired under the patent and trademark laws of the United States or this state or any foreign country, or the application for the same, as is owned or held, acquired, or developed by Space Florida ~~the authority~~, under the authority and directions given it by this part, is vested in Space Florida ~~the authority~~ for the use, benefit, and purposes provided in this part. Space Florida ~~The authority~~ is vested with and is authorized to exercise any and all of the normal incidents of such ownership, including the receipt and disposition of royalties. Any sums received as royalties from any such rights are hereby appropriated to Space Florida ~~the authority~~ for any and all of the purposes and uses provided in this part.

Section 49. Section 331.360, Florida Statutes, is amended to read:

331.360 Joint project agreement or assistance; spaceport master plan.--

(1) It shall be the duty, function, and responsibility of the Department of Transportation to promote the further development and improvement of aerospace transportation facilities; to address intermodal requirements and impacts of the launch ranges, spaceports, and other space transportation facilities; to assist in the development of joint-use facilities and technology that support aviation and aerospace operations;

Page 68 of 88

CODING: Words stricken are deletions; words underlined are additions.

hb1489-02-c2

HB 1489 CS

2006
CS

1887 and to facilitate and promote cooperative efforts between
1888 federal and state government entities to improve space
1889 transportation capacity and efficiency. In carrying out this
1890 duty and responsibility, the department may assist and advise,
1891 cooperate with, and coordinate with federal, state, local, or
1892 private organizations and individuals. The department may
1893 administratively house its space transportation responsibilities
1894 within an existing division or office.

1895 (2) Notwithstanding any other provision of law, the
1896 Department of Transportation may enter into a joint project
1897 agreement with, or otherwise assist, ~~the Florida Space~~ Florida
1898 ~~Authority~~ as necessary to effectuate the provisions of this
1899 chapter and may allocate funds for such purposes in its 5-year
1900 work program. However, the department may not fund the
1901 administrative or operational costs of Space Florida ~~the~~
1902 ~~authority~~.

1903 (3) Space Florida ~~The authority~~ shall develop a spaceport
1904 master plan for expansion and modernization of space
1905 transportation facilities within spaceport territories as
1906 defined in s. 331.303~~(23)~~. The plan shall contain recommended
1907 projects to meet current and future commercial, national, and
1908 state space transportation requirements. Space Florida ~~The~~
1909 ~~authority~~ shall submit the plan to any appropriate metropolitan
1910 planning organization ~~M.P.O.~~ for review of intermodal impacts.
1911 Space Florida ~~The authority~~ shall submit the spaceport master
1912 plan to the Department of Transportation, and such plan may be
1913 included within the department's 5-year work program of
1914 qualifying aerospace discretionary capacity improvement under

Page 69 of 88

CODING: Words stricken are deletions; words underlined are additions.

hb1489-02-c2

HB 1489 CS

2006
CS

1915 subsection (4). The plan shall identify appropriate funding
1916 levels and include recommendations on appropriate sources of
1917 revenue that may be developed to contribute to the State
1918 Transportation Trust Fund.

1919 (4) Subject to the availability of appropriated funds, the
1920 department may participate in the capital cost of eligible
1921 spaceport discretionary capacity improvement projects. The
1922 annual legislative budget request shall be based on the proposed
1923 funding requested for approved spaceport discretionary capacity
1924 improvement projects.

1925 Section 50. Section 331.369, Florida Statutes, is amended
1926 to read:

1927 331.369 Space Industry Workforce Initiative.--

1928 (1) The Legislature finds that the aerospace ~~space~~
1929 industry is critical to the economic future of the state and
1930 that the competitiveness of the industry in the state depends
1931 upon the development and maintenance of a qualified workforce.
1932 The Legislature further finds that the aerospace ~~space~~ industry
1933 in this state has diverse and complex workforce needs,
1934 including, but not limited to, the need for qualified entry-
1935 level workers, the need to upgrade the skills of technician-
1936 level incumbent workers, and the need to ensure continuing
1937 education opportunities for workers with advanced educational
1938 degrees. It is the intent of the Legislature to support programs
1939 designed to address the workforce development needs of the
1940 aerospace ~~space~~ industry in this state.

1941 (2) The Workforce Development Board of Enterprise Florida,
1942 Inc., or its successor entity, shall coordinate development of a

Page 70 of 88

CODING: Words stricken are deletions; words underlined are additions.

hb1489-02-c2

HB 1489 CS

2006
CS

1943 Space Industry Workforce Initiative in partnership with Space
 1944 Florida, ~~the Florida Space Research Institute, the institute's~~
 1945 ~~consortium~~ of public and private universities, community
 1946 colleges, and other training providers approved by the board.
 1947 The purpose of the initiative is to use or revise existing
 1948 programs and to develop innovative new programs to address the
 1949 workforce needs of the aerospace ~~space~~ industry.

1950 (3) The initiative shall emphasize:

1951 (a) Curricula content and timeframes developed with
 1952 industry participation and endorsed by the industry;

1953 (b) Programs that certify persons completing training as
 1954 meeting industry-approved standards or competencies;

1955 (c) Use of distance-learning and computer-based training
 1956 modules as appropriate and feasible;

1957 (d) Industry solicitation of public and private
 1958 universities to develop continuing education programs at the
 1959 master's and doctoral levels;

1960 (e) Agreements with the National Aeronautics and Space
 1961 Administration to replicate on a national level successful
 1962 training programs developed through the initiative; and

1963 (f) Leveraging of state and federal workforce funds.

1964 (4) The Workforce Development Board of Enterprise Florida,
 1965 Inc., or its successor entity, with the assistance of Space
 1966 Florida ~~the Florida Space Research Institute~~, shall convene
 1967 representatives from the aerospace ~~space~~ industry to identify
 1968 the priority training and education needs of the industry and to
 1969 appoint a team to design programs to meet the ~~such~~ priority
 1970 needs.

HB 1489 CS

2006
CS

1971 (5) The Workforce Development Board of Enterprise Florida,
1972 Inc., or its successor entity, as part of its statutorily
1973 prescribed annual report to the Legislature, shall provide
1974 recommendations for policies, programs, and funding to enhance
1975 the workforce needs of the aerospace ~~space~~ industry.

1976 Section 51. Paragraph (g) of subsection (2) of section
1977 14.2015, Florida Statutes, is amended to read:

1978 14.2015 Office of Tourism, Trade, and Economic
1979 Development; creation; powers and duties.--

1980 (2) The purpose of the Office of Tourism, Trade, and
1981 Economic Development is to assist the Governor in working with
1982 the Legislature, state agencies, business leaders, and economic
1983 development professionals to formulate and implement coherent
1984 and consistent policies and strategies designed to provide
1985 economic opportunities for all Floridians. To accomplish such
1986 purposes, the Office of Tourism, Trade, and Economic Development
1987 shall:

1988 (g) Serve as contract administrator for the state with
1989 respect to contracts with Enterprise Florida, Inc., the Florida
1990 Commission on Tourism, Space Florida, and all direct-support
1991 organizations under this act, excluding those relating to
1992 tourism. To accomplish the provisions of this act and applicable
1993 provisions of chapter 288, and notwithstanding the provisions of
1994 part I of chapter 287, the office shall enter into specific
1995 contracts with Enterprise Florida, Inc., the Florida Commission
1996 on Tourism, and other appropriate direct-support organizations.
1997 Such contracts may be multiyear and shall include specific
1998 performance measures for each year.

Page 72 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

1999 Section 52. Section 74.011, Florida Statutes, is amended
2000 to read:

2001 74.011 Scope.--In any eminent domain action, properly
2002 instituted by and in the name of the state; the Department of
2003 Transportation; any county, school board, municipality,
2004 expressway authority, regional water supply authority,
2005 transportation authority, flood control district, or drainage or
2006 subdrainage district; the ship canal authority; any lawfully
2007 constituted housing, port, or aviation authority; ~~the Florida~~
2008 ~~Space Authority~~; or any rural electric cooperative, telephone
2009 cooperative corporation, or public utility corporation, the
2010 petitioner may avail itself of the provisions of this chapter to
2011 take possession and title in advance of the entry of final
2012 judgment.

2013 Section 53. Subsection (6) of section 196.012, Florida
2014 Statutes, is amended to read:

2015 196.012 Definitions.--For the purpose of this chapter, the
2016 following terms are defined as follows, except where the context
2017 clearly indicates otherwise:

2018 (6) Governmental, municipal, or public purpose or function
2019 shall be deemed to be served or performed when the lessee under
2020 any leasehold interest created in property of the United States,
2021 the state or any of its political subdivisions, or any
2022 municipality, agency, special district, authority, or other
2023 public body corporate of the state is demonstrated to perform a
2024 function or serve a governmental purpose which could properly be
2025 performed or served by an appropriate governmental unit or which
2026 is demonstrated to perform a function or serve a purpose which

HB 1489 CS

2006
CS

2027 would otherwise be a valid subject for the allocation of public
2028 funds. For purposes of the preceding sentence, an activity
2029 undertaken by a lessee which is permitted under the terms of its
2030 lease of real property designated as an aviation area on an
2031 airport layout plan which has been approved by the Federal
2032 Aviation Administration and which real property is used for the
2033 administration, operation, business offices and activities
2034 related specifically thereto in connection with the conduct of
2035 an aircraft full service fixed base operation which provides
2036 goods and services to the general aviation public in the
2037 promotion of air commerce shall be deemed an activity which
2038 serves a governmental, municipal, or public purpose or function.
2039 Any activity undertaken by a lessee which is permitted under the
2040 terms of its lease of real property designated as a public
2041 airport as defined in s. 332.004(14) by municipalities,
2042 agencies, special districts, authorities, or other public bodies
2043 corporate and public bodies politic of the state, a spaceport as
2044 defined in s. 331.303~~(19)~~, or which is located in a deepwater
2045 port identified in s. 403.021(9)(b) and owned by one of the
2046 foregoing governmental units, subject to a leasehold or other
2047 possessory interest of a nongovernmental lessee that is deemed
2048 to perform an aviation, airport, aerospace, maritime, or port
2049 purpose or operation shall be deemed an activity that serves a
2050 governmental, municipal, or public purpose. The use by a lessee,
2051 licensee, or management company of real property or a portion
2052 thereof as a convention center, visitor center, sports facility
2053 with permanent seating, concert hall, arena, stadium, park, or
2054 beach is deemed a use that serves a governmental, municipal, or

Page 74 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

2055 public purpose or function when access to the property is open
2056 to the general public with or without a charge for admission. If
2057 property deeded to a municipality by the United States is
2058 subject to a requirement that the Federal Government, through a
2059 schedule established by the Secretary of the Interior, determine
2060 that the property is being maintained for public historic
2061 preservation, park, or recreational purposes and if those
2062 conditions are not met the property will revert back to the
2063 Federal Government, then such property shall be deemed to serve
2064 a municipal or public purpose. The term "governmental purpose"
2065 also includes a direct use of property on federal lands in
2066 connection with the Federal Government's Space Exploration
2067 Program or spaceport activities as defined in s. 212.02(22).
2068 Real property and tangible personal property owned by the
2069 Federal Government or Space Florida ~~the Florida Space Authority~~
2070 and used for defense and space exploration purposes or which is
2071 put to a use in support thereof shall be deemed to perform an
2072 essential national governmental purpose and shall be exempt.
2073 "Owned by the lessee" as used in this chapter does not include
2074 personal property, buildings, or other real property
2075 improvements used for the administration, operation, business
2076 offices and activities related specifically thereto in
2077 connection with the conduct of an aircraft full service fixed
2078 based operation which provides goods and services to the general
2079 aviation public in the promotion of air commerce provided that
2080 the real property is designated as an aviation area on an
2081 airport layout plan approved by the Federal Aviation
2082 Administration. For purposes of determination of "ownership,"

Page 75 of 88

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1489-02-c2

HB 1489 CS

2006
CS

2083 buildings and other real property improvements which will revert
2084 to the airport authority or other governmental unit upon
2085 expiration of the term of the lease shall be deemed "owned" by
2086 the governmental unit and not the lessee. Providing two-way
2087 telecommunications services to the public for hire by the use of
2088 a telecommunications facility, as defined in s. 364.02(15), and
2089 for which a certificate is required under chapter 364 does not
2090 constitute an exempt use for purposes of s. 196.199, unless the
2091 telecommunications services are provided by the operator of a
2092 public-use airport, as defined in s. 332.004, for the operator's
2093 provision of telecommunications services for the airport or its
2094 tenants, concessionaires, or licensees, or unless the
2095 telecommunications services are provided by a public hospital.
2096 However, property that is being used to provide such
2097 telecommunications services on or before October 1, 1997, shall
2098 remain exempt, but such exemption expires October 1, 2004.

2099 Section 54. Subsection (22) of section 212.02, Florida
2100 Statutes, is amended to read:

2101 212.02 Definitions.--The following terms and phrases when
2102 used in this chapter have the meanings ascribed to them in this
2103 section, except where the context clearly indicates a different
2104 meaning:

2105 (22) "Spaceport activities" means activities directed or
2106 sponsored by Space Florida ~~the Florida Space Authority~~ on
2107 spaceport territory pursuant to its powers and responsibilities
2108 under the Space Florida Act ~~Florida Space Authority Act~~.

2109 Section 55. Subsection (7) of section 288.063, Florida
2110 Statutes, is amended to read:

HB 1489 CS

2006
CS

2111 288.063 Contracts for transportation projects.--

2112 (7) For the purpose of this section, Space Florida the
2113 ~~Florida Space Authority~~ may serve as the local government or as
2114 the contracting agency for transportation projects within
2115 spaceport territory as defined by s. 331.304.

2116 Section 56. Subsection (1) of section 288.075, Florida
2117 Statutes, is amended to read:

2118 288.075 Confidentiality of records.--

2119 (1) As used in this section, the term "economic
2120 development agency" means the Office of Tourism, Trade, and
2121 Economic Development, any industrial development authority
2122 created in accordance with part III of chapter 159 or by special
2123 law, Space Florida the ~~Florida Space Authority~~ created in part
2124 II of chapter 331, the ~~Florida Aerospace Finance Corporation~~
2125 ~~created in part III of chapter 331~~, the public economic
2126 development agency of a county or municipality, or any research
2127 and development authority created in accordance with part V of
2128 chapter 159. The term also includes any private agency, person,
2129 partnership, corporation, or business entity when authorized by
2130 the state, a municipality, or a county to promote the general
2131 business interests or industrial interests of the state or that
2132 municipality or county.

2133 Section 57. Subsection (2) of section 288.35, Florida
2134 Statutes, is amended to read:

2135 288.35 Definitions.--The following terms, wherever used or
2136 referred to in this part, shall have the following meanings:

2137 (2) "Government agency" means the state or any county or
2138 political subdivision thereof; any state agency; any

HB 1489 CS

2006
CS

2139 consolidated government of a county, and some or all of the
2140 municipalities located within the said county; any chartered
2141 municipality in the state; and any of the institutions of such
2142 consolidated governments, counties, or municipalities.

2143 Specifically included are airports, port authorities, industrial
2144 authorities, and Space Florida ~~the Florida Space Authority~~.

2145 Section 58. Subsection (2) of section 288.9415, Florida
2146 Statutes, is amended to read:

2147 288.9415 International Trade Grants.--

2148 (2) A county, municipality, economic development council,
2149 Space Florida ~~the Florida Space Authority~~, or a not-for-profit
2150 association of businesses organized to assist in the promotion
2151 of international trade may apply for a grant of state funds for
2152 the promotion of international trade.

2153 Section 59. Paragraph (j) of subsection (5) of section
2154 212.08, Florida Statutes, is amended to read:

2155 212.08 Sales, rental, use, consumption, distribution, and
2156 storage tax; specified exemptions.--The sale at retail, the
2157 rental, the use, the consumption, the distribution, and the
2158 storage to be used or consumed in this state of the following
2159 are hereby specifically exempt from the tax imposed by this
2160 chapter.

2161 (5) EXEMPTIONS; ACCOUNT OF USE.--

2162 (j) Machinery and equipment used in semiconductor,
2163 defense, or space technology production and research and
2164 development.--

2165 1.a. Industrial machinery and equipment used in
2166 semiconductor technology facilities certified under subparagraph

HB 1489 CS

2006
CS

2167 6. to manufacture, process, compound, or produce semiconductor
2168 technology products for sale or for use by these facilities are
2169 exempt from the tax imposed by this chapter. For purposes of
2170 this paragraph, industrial machinery and equipment includes
2171 molds, dies, machine tooling, other appurtenances or accessories
2172 to machinery and equipment, testing equipment, test beds,
2173 computers, and software, whether purchased or self-fabricated,
2174 and, if self-fabricated, includes materials and labor for
2175 design, fabrication, and assembly.

2176 b. Industrial machinery and equipment used in defense or
2177 space technology facilities certified under subparagraph 6. to
2178 design, manufacture, assemble, process, compound, or produce
2179 defense technology products or space technology products for
2180 sale or for use by these facilities are exempt from ~~25 percent~~
2181 ~~of~~ the tax imposed by this chapter.

2182 2.a. Machinery and equipment are exempt from the tax
2183 imposed by this chapter if used predominately in semiconductor
2184 wafer research and development activities in a semiconductor
2185 technology research and development facility certified under
2186 subparagraph 6. For purposes of this paragraph, machinery and
2187 equipment includes molds, dies, machine tooling, other
2188 appurtenances or accessories to machinery and equipment, testing
2189 equipment, test beds, computers, and software, whether purchased
2190 or self-fabricated, and, if self-fabricated, includes materials
2191 and labor for design, fabrication, and assembly.

2192 b. Machinery and equipment are exempt from ~~25 percent of~~
2193 the tax imposed by this chapter if used predominately in defense
2194 or space research and development activities in a defense or

HB 1489 CS

2006
CS

2195 space technology research and development facility certified
2196 under subparagraph 6.

2197 3. Building materials purchased for use in manufacturing
2198 or expanding clean rooms in semiconductor-manufacturing
2199 facilities are exempt from the tax imposed by this chapter.

2200 4. In addition to meeting the criteria mandated by
2201 subparagraph 1., subparagraph 2., or subparagraph 3., a business
2202 must be certified by the Office of Tourism, Trade, and Economic
2203 Development as authorized in this paragraph in order to qualify
2204 for exemption under this paragraph.

2205 5. For items purchased tax exempt pursuant to this
2206 paragraph, possession of a written certification from the
2207 purchaser, certifying the purchaser's entitlement to exemption
2208 pursuant to this paragraph, relieves the seller of the
2209 responsibility of collecting the tax on the sale of such items,
2210 and the department shall look solely to the purchaser for
2211 recovery of tax if it determines that the purchaser was not
2212 entitled to the exemption.

2213 6.a. To be eligible to receive the exemption provided by
2214 subparagraph 1., subparagraph 2., or subparagraph 3., a
2215 qualifying business entity shall apply to Enterprise Florida,
2216 Inc. The application shall be developed by the Office of
2217 Tourism, Trade, and Economic Development in consultation with
2218 Enterprise Florida, Inc.

2219 b. Enterprise Florida, Inc., shall review each submitted
2220 application and information and determine whether or not the
2221 application is complete within 5 working days. Once an
2222 application is complete, Enterprise Florida, Inc., shall, within

Page 80 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

2223 10 working days, evaluate the application and recommend approval
2224 or disapproval of the application to the Office of Tourism,
2225 Trade, and Economic Development.

2226 c. Upon receipt of the application and recommendation from
2227 Enterprise Florida, Inc., the Office of Tourism, Trade, and
2228 Economic Development shall certify within 5 working days those
2229 applicants who are found to meet the requirements of this
2230 section and notify the applicant, Enterprise Florida, Inc., and
2231 the department of the certification. If the Office of Tourism,
2232 Trade, and Economic Development finds that the applicant does
2233 not meet the requirements of this section, it shall notify the
2234 applicant and Enterprise Florida, Inc., within 10 working days
2235 that the application for certification has been denied and the
2236 reasons for denial. The Office of Tourism, Trade, and Economic
2237 Development has final approval authority for certification under
2238 this section.

2239 7.a. A business may apply once each year for the
2240 exemption.

2241 b. The application must indicate, for program evaluation
2242 purposes only, the average number of full-time equivalent
2243 employees at the facility over the preceding calendar year, the
2244 average wage and benefits paid to those employees over the
2245 preceding calendar year, the total investment made in real and
2246 tangible personal property over the preceding calendar year, and
2247 the total value of tax-exempt purchases and taxes exempted
2248 during the previous year. The department shall assist the Office
2249 of Tourism, Trade, and Economic Development in evaluating and
2250 verifying information provided in the application for exemption.

HB 1489 CS

2006
CS

2251 c. The Office of Tourism, Trade, and Economic Development
2252 may use the information reported on the application for
2253 evaluation purposes only and shall prepare an annual report on
2254 the exemption program and its cost and impact. The annual report
2255 for the preceding fiscal year shall be submitted to the
2256 Governor, the President of the Senate, and the Speaker of the
2257 House of Representatives by September 30 of each fiscal year.

2258 8. A business certified to receive this exemption may
2259 elect to designate one or more state universities or community
2260 colleges as recipients of up to 100 percent of the amount of the
2261 exemption for which they may qualify. To receive these funds,
2262 the institution must agree to match the funds so earned with
2263 equivalent cash, programs, services, or other in-kind support on
2264 a one-to-one basis in the pursuit of research and development
2265 projects as requested by the certified business. The rights to
2266 any patents, royalties, or real or intellectual property must be
2267 vested in the business unless otherwise agreed to by the
2268 business and the university or community college.

2269 9. As used in this paragraph, the term:

2270 a. "Predominately" means at least 50 percent of the time
2271 in qualifying research and development.

2272 b. "Research and development" means basic and applied
2273 research in the science or engineering, as well as the design,
2274 development, and testing, of prototypes or processes of new or
2275 improved products, including the design, development, and
2276 testing of space launch vehicles, space flight vehicles,
2277 missiles, satellites, or research payloads, avionics, and
2278 associated control systems and processing systems, and

Page 82 of 88

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hb1489-02-c2

HB 1489 CS

2006
CS

2279 components of any of the foregoing. Research and development
2280 does not include market research, routine consumer product
2281 testing, sales research, research in the social sciences or
2282 psychology, or similar nontechnological activities, ~~or technical~~
2283 services.

2284 c. "Semiconductor technology products" means raw
2285 semiconductor wafers or semiconductor thin films that are
2286 transformed into semiconductor memory or logic wafers, including
2287 wafers containing mixed memory and logic circuits; related
2288 assembly and test operations; active-matrix flat panel displays;
2289 semiconductor chips; semiconductor lasers; optoelectronic
2290 elements; and related semiconductor technology products as
2291 determined by the Office of Tourism, Trade, and Economic
2292 Development.

2293 d. "Clean rooms" means manufacturing facilities enclosed
2294 in a manner that meets the clean manufacturing requirements
2295 necessary for high-technology semiconductor-manufacturing
2296 environments.

2297 e. "Defense technology products" means products that have
2298 a military application, including, but not limited to, weapons,
2299 weapons systems, guidance systems, surveillance systems,
2300 communications or information systems, munitions, aircraft,
2301 vessels, or boats, or components thereof, which are intended for
2302 military use and manufactured in performance of a contract with
2303 the United States Department of Defense or the military branch
2304 of a recognized foreign government or a subcontract thereunder
2305 which relates to matters of national defense.

HB 1489 CS

2006
CS

2306 f. "Space technology products" means products that are
2307 specifically designed or manufactured for application in space
2308 activities, including, but not limited to, space launch
2309 vehicles, space flight vehicles, missiles, satellites or
2310 research payloads, avionics, and associated control systems and
2311 processing systems and components of any of the foregoing. The
2312 term does not include products that are designed or manufactured
2313 for general commercial aviation or other uses even though those
2314 products may also serve an incidental use in space applications.

2315 Section 60. Section 1004.86, Florida Statutes, is created
2316 to read:

2317 1004.86 Florida Center for Mathematics and Science
2318 Education Research.--

2319 (1) The Department of Education shall establish at a
2320 public state university the Florida Center for Mathematics and
2321 Science Education Research to increase student achievement in
2322 science and mathematics. The center shall:

2323 (a) Provide technical assistance and support to school
2324 districts and schools in the development and implementation of
2325 mathematics and science instruction.

2326 (b) Conduct applied research on policy and practices
2327 related to mathematics and science instruction and assessment in
2328 the state.

2329 (c) Conduct or compile basic research regarding student
2330 acquisition of mathematics and science knowledge and skills.

2331 (d) Develop comprehensive course frameworks for
2332 mathematics and science courses that emphasize rigor and
2333 relevance at the elementary, middle, and high school levels.

HB 1489 CS

2006
CS

2334 (e) Disseminate information regarding research-based
2335 teaching practices in mathematics and science to teachers and
2336 teacher educators in the state.

2337 (f) Collect, manage, and report on assessment information
2338 regarding student achievement in mathematics and science.

2339 (g) Establish partnerships with state universities,
2340 community colleges, and school districts.

2341 (h) Collaborate with the Florida Center for Reading
2342 Research in order to provide research-based practices that
2343 integrate the teaching of reading within mathematics and
2344 sciences courses.

2345 (2) The department shall monitor the center through the
2346 Division of K-12 Public Schools.

2347 Section 61. Sections 331.314, 331.367, 331.368, 331.401,
2348 331.403, 331.405, 331.407, 331.409, 331.411, 331.415, 331.417,
2349 and 331.419, Florida Statutes, are repealed.

2350 Section 62. The Florida Space Authority, the Florida Space
2351 Research Institute, and the Florida Aerospace Finance
2352 Corporation are dissolved effective September 1, 2006. Space
2353 Florida, as created by this act, is the successor organization
2354 to, and as such shall assume the records, property, obligations,
2355 and unexpended balances of appropriations, allocations, or other
2356 funds of, the Florida Space Authority, the Florida Space
2357 Research Institute, and the Florida Aerospace Finance
2358 Corporation.

2359 Section 63. The Governor, the President of the Senate, and
2360 the Speaker of the House of Representatives shall appoint the
2361 board of directors of Space Florida no later than July 1, 2006.

HB 1489 CS

2006
CS

2362 The board of directors of Space Florida shall hold its first
2363 meeting no later than August 1, 2006. The board of directors of
2364 Space Florida shall appoint a president no later than September
2365 1, 2006. The Executive Office of the Governor shall provide
2366 staffing and transitional support to Space Florida until
2367 December 31, 2006.

2368 Section 64. Subsection (12) is added to section 288.1224,
2369 Florida Statutes, to read:

2370 288.1224 Powers and duties.--The commission:

2371 (12) Shall advise and cooperate with Space Florida, when
2372 appropriate and beneficial.

2373 Section 65. Subsection (7) is added to section 288.9015,
2374 Florida Statutes, to read:

2375 288.9015 Enterprise Florida, Inc.; purpose; duties.--

2376 (7) Enterprise Florida, Inc., shall advise and cooperate
2377 with Space Florida, when appropriate and beneficial, related to
2378 issues of aerospace business retention, expansion, attraction,
2379 and creation, and other related activities.

2380 Section 66. Subsection (12) is added to section 445.004,
2381 Florida Statutes, to read:

2382 445.004 Workforce Florida, Inc.; creation; purpose;
2383 membership; duties and powers.--

2384 (12) Workforce Florida, Inc., shall advise and cooperate
2385 with Space Florida, when appropriate and beneficial, for the
2386 furtherance of aerospace workforce development.

2387 Section 67. Subsection (17) is added to section 1001.10,
2388 Florida Statutes, read:

HB 1489 CS

2006
CS

2389 1001.10 Commissioner of Education; general powers and
2390 duties.--The Commissioner of Education is the chief educational
2391 officer of the state, and is responsible for giving full
2392 assistance to the State Board of Education in enforcing
2393 compliance with the mission and goals of the seamless K-20
2394 education system. To facilitate innovative practices and to
2395 allow local selection of educational methods, the State Board of
2396 Education may authorize the commissioner to waive, upon the
2397 request of a district school board, State Board of Education
2398 rules that relate to district school instruction and school
2399 operations, except those rules pertaining to civil rights, and
2400 student health, safety, and welfare. The Commissioner of
2401 Education is not authorized to grant waivers for any provisions
2402 in rule pertaining to the allocation and appropriation of state
2403 and local funds for public education; the election,
2404 compensation, and organization of school board members and
2405 superintendents; graduation and state accountability standards;
2406 financial reporting requirements; reporting of out-of-field
2407 teaching assignments under s. 1012.42; public meetings; public
2408 records; or due process hearings governed by chapter 120. No
2409 later than January 1 of each year, the commissioner shall report
2410 to the Legislature and the State Board of Education all approved
2411 waiver requests in the preceding year. Additionally, the
2412 commissioner has the following general powers and duties:
2413 (17) To advise and cooperate with Space Florida, when
2414 appropriate and beneficial.
2415

HB 1489 CS

2006
CS

2416 The commissioner's office shall operate all statewide functions
2417 necessary to support the State Board of Education and the K-20
2418 education system, including strategic planning and budget
2419 development, general administration, and assessment and
2420 accountability.

2421 Section 68. The following appropriations are made to the
2422 Governor's Office of Tourism, Trade, and Economic Development:

2423 (1) From nonrecurring general revenue for fiscal year
2424 2006-2007:

2425 (a) The sum of \$35 million is appropriated to be used for
2426 infrastructure needs related to the development of the National
2427 Aeronautics and Space Administration's Crew Exploration Vehicle.

2428 (b) The sum of \$8 million is appropriated for
2429 implementation of recommendations made by the Governor's
2430 Commission on the Future of Space and Aeronautics in Florida,
2431 including, but not limited to, commercial launch assistance and
2432 spaceport development.

2433 (2) From recurring general revenue for fiscal year 2006-
2434 2007 and annually thereafter:

2435 (a) The sum of \$3 million is appropriated for operational
2436 needs of Space Florida.

2437 (b) The sum of \$4 million is appropriated for
2438 implementation of innovative education programs and financing
2439 assistance for aerospace business development projects.

2440 Section 69. This act shall take effect upon becoming a
2441 law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1583 CS

Community Redevelopment

SPONSOR(S): Davis

TIED BILLS:

IDEN./SIM. BILLS: SB 2364

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Local Government Council	7 Y, 0 N, w/CS	Camechis	Hamby
2) Growth Management Committee	9 Y, 0 N, w/CS	Grayson	Grayson
3) State Infrastructure Council		Grayson <i>AD</i>	Havlicak <i>RH</i>
4)			
5)			

SUMMARY ANALYSIS

The Community Redevelopment Act of 1969 (Act) was established with the intent to revitalize slum and blighted areas "which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state." Community redevelopment agency's (CRAs) are funded primarily through tax increment financing (TIF). As property tax values in the redevelopment area rise above property values in the base year the redevelopment area was created, increment revenues are generated by applying the current millage rate levied by each taxing authority in the area to the increase in value. Each non-exempt taxing authority that levies taxes on property within a community redevelopment area must annually appropriate the amount of increment revenues to a CRA trust fund. These revenues are used to service bonds issued to finance redevelopment project. CRAs created prior to 2002 may receive TIF contributions for 60 years, while CRAs subsequently created may receive TIF contributions for 40 years. As of March 26, 2006, there were 171 CRAs in Florida.

This bill amends the Act to revise procedures for calculating tax increment revenues, adopting community redevelopment plans or modifications to plans that expand boundaries of a community redevelopment area, and revise procedures for delegating community redevelopment powers to cities by charter counties. Generally, the bill:

- Authorizes CRAs to contract with certain entities to develop and provide affordable housing and to use tax increment dollars to offer incentives for such development.
- Revises procedures regarding the adoption of community redevelopment plans by certain CRAs, and modifications of community redevelopment plans that expand the boundaries of a redevelopment area, to require a joint hearing between the county and municipality to discuss competing policies and uses for the public funds.
- Establishes limitations in certain circumstances on the amount of tax increment contributions that taxing authorities must contribute to CRAs fitting certain criteria. The bill also authorizes interlocal agreements to provide alternative methods of calculating increment revenues contributed by a taxing authority to a CRA.
- Requires a charter county to approve or deny a city's request for delegation of community redevelopment powers within 120 days or the request is deemed approved.
- Authorizes city and counties to create a slum or blight area study prior to adopting a resolution to create a CRA.

The bill does not appear to have a fiscal impact on the state.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

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DATE: 4/16/2006

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not implicate any of the House principles.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Community Redevelopment Act Generally

The Community Redevelopment Act of 1969, Ch. 163, Part II, F.S. (Act), was enacted to provide a mechanism to revitalize slum and blighted areas "which constitute a serious and growing menace, injurious to the public health, safety, morals, and welfare of the residents of the state." The Act authorizes each local government to establish one Community Redevelopment Agency (CRA) to revitalize designated slum and blighted areas upon a "finding of necessity" and a further finding of a "need for a CRA to carry out community redevelopment." During the last two decades, municipalities, and to a lesser extent counties, have increasingly relied upon CRAs as a mechanism for community redevelopment.

CRAs are funded primarily through tax increment financing (TIF). As property tax values in the redevelopment area rise above property values in the base year the redevelopment area was created, increment revenues are generated by applying the current millage rate levied by each taxing authority in the area to the increase in value. Each non-exempt taxing authority that levies taxes on property within a community redevelopment area must annually appropriate the amount of increment revenues to the CRA trust fund. These revenues are used primarily to service bonds issued to finance redevelopment projects. CRAs created prior to 2002 may receive TIF contributions for 60 years, while CRAs subsequently created may receive TIF contributions for 40 years.

As of March 26, 2006, there were 171 CRAs in Florida.¹

Creation of Community Redevelopment Agencies

A county or municipality may not exercise redevelopment powers conferred by the Act until after the governing body has adopted a resolution finding that:

- (1) One or more slum or blighted areas, or one or more areas in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, exist in such county or municipality; and,
- (2) The rehabilitation, conservation, or redevelopment, or a combination thereof, of such area or areas, including, if appropriate, the development of housing which residents of low or moderate income, including the elderly, can afford, is necessary in the interest of the public health, safety, morals, or welfare of the residents of such county or municipality.²

Further, "[c]ommunity redevelopment in a community redevelopment area shall not be planned or initiated unless the governing body has, by resolution, determined such area to be a slum area, a blighted area, or an area in which there is a shortage of housing affordable to residents of low or moderate income, including the elderly, or a combination thereof, and designated such area as appropriate for community redevelopment."³

¹ Department of Community Affairs, Special District Detail Report, <http://www.floridaspecialdistricts.org/OfficialList/report.asp>, March 26, 2006

² s. 163.355, F.S.

³ s. 163.360(1), F.S.

The Act⁴ defines "slum area" and "blighted area" as follows:

(7) "Slum area" means an area having physical or economic conditions conducive to disease, infant mortality, juvenile delinquency, poverty, or crime because there is a predominance of buildings or improvements, whether residential or nonresidential, which are impaired by reason of dilapidation, deterioration, age, or obsolescence, and exhibiting one or more of the following factors:

- (a) Inadequate provision for ventilation, light, air, sanitation, or open spaces;
- (b) High density of population, compared to the population density of adjacent areas within the county or municipality; and overcrowding, as indicated by government-maintained statistics or other studies and the requirements of the Florida Building Code; or
- (c) The existence of conditions that endanger life or property by fire or other causes.

(8) "Blighted area" means an area in which there are a substantial number of deteriorated, or deteriorating structures, in which conditions, as indicated by government-maintained statistics or other studies, are leading to economic distress or endanger life or property, and in which two or more of the following factors are present:

- (a) Predominance of defective or inadequate street layout, parking facilities, roadways, bridges, or public transportation facilities;
- (b) Aggregate assessed values of real property in the area for ad valorem tax purposes have failed to show any appreciable increase over the 5 years prior to the finding of such conditions;
- (c) Faulty lot layout in relation to size, adequacy, accessibility, or usefulness;
- (d) Unsanitary or unsafe conditions;
- (e) Deterioration of site or other improvements;
- (f) Inadequate and outdated building density patterns;
- (g) Falling lease rates per square foot of office, commercial, or industrial space compared to the remainder of the county or municipality;
- (h) Tax or special assessment delinquency exceeding the fair value of the land;
- (i) Residential and commercial vacancy rates higher in the area than in the remainder of the county or municipality;
- (j) Incidence of crime in the area higher than in the remainder of the county or municipality;
- (k) Fire and emergency medical service calls to the area proportionately higher than in the remainder of the county or municipality;
- (l) A greater number of violations of the Florida Building Code in the area than the number of violations recorded in the remainder of the county or municipality;
- (m) Diversity of ownership or defective or unusual conditions of title which prevent the free alienability of land within the deteriorated or hazardous area; or
- (n) Governmentally owned property with adverse environmental conditions caused by a public or private entity.

However, the term "blighted area" also means any area in which at least one of the factors identified in paragraphs (a) through (n) are present and all taxing authorities subject to s. 163.387(2)(a) agree, either by interlocal agreement or agreements with the agency or by resolution, that the area is blighted. Such agreement or resolution shall only determine that the area is blighted. For purposes of qualifying for the tax credits authorized in chapter 220, "blighted area" means an area as defined in this subsection.

⁴ s. 163.340, F.S.

A "community redevelopment area" is defined as "a slum area, a blighted area, or an area in which there is a shortage of housing that is affordable to residents of low or moderate income, including the elderly, or a coastal and tourist area that is deteriorating and economically distressed due to outdated building density patterns, inadequate transportation and parking facilities, faulty lot layout or inadequate street layout, or a combination thereof which the governing body designates as appropriate for community redevelopment."

The division of authority between a county and municipality regarding the creation or expansion of a municipal CRA depends upon whether the county is a non-charter or charter county, or whether a CRA was created *prior* to adoption of a county charter. The division of authority may be summarized as follows:

	Authority over creation, expansion, or modification of a CRA
Charter County	Charter counties possess sole authority to create CRAs within the county, but may delegate authority to a municipality via interlocal agreement.
Non-Charter County	Non-charter counties do not have authority over the creation, expansion, or modification of municipal CRAs within the county. Therefore, a municipality may create a CRA and operate the CRA, requiring the long-term contribution of TIF payments from the county, even if the county objects or has other county funding issues to address.
A CRA created in a charter county <i>prior</i> to adoption of the county charter	The charter county does not have authority over the operations of the CRA, including modification of the redevelopment plan or expansion of CRA boundaries.

Governance of a Community Redevelopment Agency

The governing body of the local government creating a CRA may appoint a board of commissioners of between 5 and 7 members to govern the CRA, or the governing body may declare itself to be the CRA. A governing body that consists of five members may appoint two additional persons to act as members of the CRA board. In a home rule charter county, powers granted under the Act must be exercised exclusively by the governing body of the charter county unless the county adopts a resolution delegating such powers within the boundaries of a municipality to the governing body of the municipality.⁵ This limitation does not apply, however, to a CRA created by a municipality prior to the adoption of a county home rule charter. In addition, a non-charter county cannot exercise powers conferred by the Act within the boundaries of a municipality unless the governing body of the municipality expresses its consent by resolution.⁶

Community Redevelopment Agency Plans

Each community redevelopment area must have an approved community redevelopment plan in conformance with the local government comprehensive plan.⁷ The plan must be sufficiently complete to indicate any land acquisition, demolition and removal of structures, redevelopment, improvements, and rehabilitation to be carried out in the designated area.⁸ The plan must also provide for the development of affordable housing in the area or state the reasons for not addressing the issue in the plan.⁹ The local government may subsequently modify the community redevelopment plan upon the recommendation of the CRA.¹⁰

⁵ s. 163.410, F.S.

⁶ s. 163.415, F.S.

⁷ s. 163.358(2)(a), F.S.

⁸ s. 163.358(2)(b), F.S.

⁹ s. 163.358(2)(c), F.S.

¹⁰ s. 163.361, F.S.

Section 163.361, F.S., governs the modification of community redevelopment plans, and authorizes CRAs -- those created by counties or cities -- to modify such plans after public notice and a public hearing. Section 163.361(1), F.S., allows amendments to the redevelopment plan to change the boundaries of a redevelopment area or the development and implementation of community policing innovations. The section places no restrictions on the magnitude of expansions or exclusions, nor does the section distinguish between modifications to plans in charter and non-charter counties.

Redevelopment Trust Funds and Tax Increment Financing

Section 163.387, F.S., provides for the creation of a redevelopment trust fund for each CRA. Funds allocated to and deposited into this fund are used by the CRA to finance any community redevelopment undertaken based on an approved community redevelopment plan. In tax increment financing, property values in a certain defined community redevelopment area are frozen by local ordinance at the assessed value for the base year, which is the year in which the community redevelopment area was established. As redevelopment proceeds within the redevelopment area, the actual assessed value of property within the redevelopment area should increase, generating tax increment revenues for the CRA.

Section 163.340(2), F.S., defines "taxing authority" to mean the state or any county, municipality, authority, special district as defined in s. 165.031(5), F.S., or other public body of the state, except a school district." Taxing authorities that levy ad valorem taxes on property located within a community redevelopment area are required to deposit the incremental revenue generated as a result of this increase in property value into a redevelopment trust fund for the CRA's use. Section 163.387, F.S., specifically provides that "the annual funding of the redevelopment trust fund shall be in an amount not less than that increment in the income, proceeds, revenues, and funds of each taxing authority derived from or held in connection with undertaking and carrying out of community redevelopment under this part."

Exemptions from Tax Increment Financing

Section 163.387(2)(c), F.S., exempts the following public bodies or taxing authorities created prior to July 1, 1993, from the requirement to deposit an appropriation equaling incremental revenue into a CRA's redevelopment trust fund:

- A special district that levies ad valorem taxes on taxable real property in more than one county.
- A special district, the sole available source of revenue of which is ad valorem taxes at the time an ordinance is adopted under this section.
- A library district, except a library district in a jurisdiction where the community redevelopment agency had validated bonds as of April 30, 1984.
- A neighborhood improvement district created under the Safe Neighborhoods Act.
- A metropolitan transportation authority.
- A water management district created under s. 373.069, F.S.

In addition, a local governing body that creates a CRA may exempt a special district that levies ad valorem taxes within that community redevelopment area from the requirement to deposit incremental revenue into a CRA's redevelopment trust fund.¹¹ The local governing body may grant the exemption either in its sole discretion or in response to the request of the special district. The local governing body must establish procedures by which a special district may submit a written request for an exemption from contributing to the trust fund. In deciding whether to deny or grant a special district's request for exemption, the local governing body must consider certain specified factors.

The local governing body must hold a public hearing on a special district's request for exemption after public notice of the hearing is published in a newspaper having a general circulation in the county or

¹¹ s. 163.387(2)(d), F.S.

municipality that created the community redevelopment area. The notice must describe the time, date, place and purpose of the hearing, identify generally the community redevelopment area covered by the plan, and the impact of the plan on the special district that requested the exemption. If a local governing body grants an exemption to a special district, the local governing body and the special district must enter into an interlocal agreement that establishes the conditions of the exemption, including the period of time for which the exemption is granted. If a local governing body denies a request for exemption by a special district, the local governing body must provide the special district with a written analysis specifying the rationale for the denial.

The decision to either deny or grant an exemption must be made by the local governing body within 120 days after the date the written request was submitted to the local governing body pursuant to procedures established by the governing body.

Community Redevelopment Agency Powers

CRAs are granted those powers "necessary or convenient to carry out and effectuate the purposes of the act."¹² These powers include the power to issue bonds and acquire property by eminent domain, if approved by the governing body that established the CRA. CRAs are also granted the power to undertake and carry out community redevelopment and related activities within the community redevelopment area. Redevelopment may include such activities as the acquisition and disposition of real property located within the community redevelopment area and the repair or rehabilitation of structures within the community redevelopment area for dwelling uses.¹³

Charter counties and non-charter counties are treated differently under the Act. Section 163.410, F.S., grants charter counties exclusive authority to exercise the powers of the Act, but allows a charter county to delegate such powers to a municipality. In 1983, ch. 83-29, L.O.F., was enacted to provide that the section does not apply to any community redevelopment agency created by a municipality prior to adoption of a county home rule charter. Noncharter counties are not granted exclusive control over community redevelopment activities.

Legislative Committee on Intergovernmental Relations (LCIR) Study

During the 2003-2004 interim, the LCIR conducted a study of economic revitalization initiatives in distressed urban areas. During the study, local governments in Florida cited CRAs as the most commonly used economic development and revitalization program in Florida. The LCIR continued reviewing the issue of urban revitalization with an emphasis on CRAs. At the conclusion of the review, LCIR issued a comprehensive report in January 2005 entitled Local Government Concerns Regarding Community Redevelopment Agencies in Florida (Report). The Report included the following "Findings":

- County and municipal governments agree that CRAs are useful mechanisms for addressing slum and blight.
- Representatives from municipal government and CRA officials prefer no change to existing CRA statutes, stating that current law has resulted in improvements to areas previously designated as slum or blighted.
- Representatives from municipal government and CRA officials also submit that any problems can best be addressed locally through interlocal agreements rather than statutory changes.
- Representatives of county government advocate changes to existing CRA statutes, stating current law is responsible for creating an imbalance in power between municipal and county governments.
- Problems cited by county government representatives include, among others: county government has insufficient input into operations and expansion of existing CRA districts and creation of new districts; and non-charter counties have no voice whatsoever in CRA activities within their jurisdiction.

¹² s. 163.358, F.S.

¹³ s. 163.370(1)(c), F.S.

- Current law does not require or provide for interlocal agreements between county and municipal governments.
- According to 2003 millage rates for county and municipal governments, 78 municipalities with CRAs have lower millage rates than their host county and 36 municipalities with CRAs have higher millage rates than their host county.
- LCIR staff estimates that, based on 2003 millage rates, county government contributes \$81,674 to municipal CRAs per each \$100,000 increase in the CRA district's taxable value (assumed increase), compared to municipal government contribution of \$66,905 to municipal CRAs per each \$100,000 increase in the CRA district's taxable value.
- A recent evaluation of three CRAs in Florida, sponsored by the Florida Redevelopment Association, found that TIF payments impose a greater financial burden on municipalities than on counties when measured as a percent of taxable property values and as a percent of overall operating revenues. In addition, some municipalities contribute larger TIF payments than do their host counties.

Effect of Proposed Changes

Section 1. Amending s. 163.340, F.S., relating to Definitions of "Public body," "Community redevelopment area," and "Taxing Authorities" This section amends s. 163.340, F.S., remove a reference to "taxing authority" in the definition of "public body" and to create a definition of the term "taxing authorities." "Taxing authority" means any public body levying an ad valorem tax on real property located within a community redevelopment area. The definition excludes public bodies exempted from the obligation to appropriate increment revenues to a redevelopment trust fund pursuant to s. 163.387(2). Further, the bill provides that a CRA created after July 1, 2006, may not, without the county's approval, contain a community redevelopment area consisting of more than 80% of the municipality.

Section 2. Amending s. 163.346, F.S., relating to Notice to Taxing Authorities Currently, s. 163.346, F.S., requires a city or county governing body to notify all taxing authorities prior to enacting any resolution or ordinance required to create a community redevelopment agency; prior to approving, adopting, or amending a community redevelopment plan; and prior to issuing redevelopment revenue bonds. The governing body must provide public notice of such proposed action and, at least 15 days before such proposed action, mail by registered mail a notice to each taxing authority that levies ad valorem taxes on taxable real property contained within the geographic boundaries of the redevelopment area.

This bill amends s. 163.346, F.S., to also require notice to taxing authorities if the governing body of the city or county adopts a resolution establishing a slum and blight study area under s. 163.354, F.S., as created by this bill.

Section 3. Creates s. 163.354, F.S., relating to Development of Study Area This new section authorizes the governing body of a city or county to adopt a resolution establishing a slum and blight study area before adopting a resolution making a finding of necessity to create a CRA as required by s. 163.355, F.S.

Section 4. Amends s. 163.360, F.S., relating to Community Redevelopment Plans Under current s. 163.360, F.S., a county, municipality, or CRA may itself prepare or cause to be prepared a community redevelopment plan, or any person or agency, public or private, may submit such a plan to a community redevelopment agency. The CRA must submit any community redevelopment plan it recommends for approval, together with its written recommendations, to the governing body and to each taxing authority that levies ad valorem taxes on taxable real property contained within the geographic boundaries of the redevelopment area. The governing body must conduct a public hearing on a community redevelopment plan after public notice thereof by publication in a newspaper having a general circulation in the area of operation of the county or municipality. The notice must describe the time, date, place, and purpose of the hearing, identify generally the

community redevelopment area covered by the plan, and outline the general scope of the community redevelopment plan under consideration. Following the hearing, the governing body may approve the community redevelopment and the plan if it makes certain determinations required by law.

This bill amends that section to authorize a CRA to contract with qualified nonprofits, faith based organizations or other entities to develop and provide affordable and workforce housing in the area, as well as use tax increment dollars to offer incentives for such development. Examples of incentives are: low interest or no interest loans through qualified lenders or the CRA itself; revolving loans; façade improvement loans or grants; matching, seed or leverage dollars for loans or grants; and developer subsidies. Other incentives as determined needed by the CRA may be provided. For the purposes of this provision, "affordable housing" means housing that meets the definition of "affordable" under s. 420.0004(3), F.S., and "workforce housing" means housing for which the monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households whose income is 150% of the median income of the area.

The bill also creates additional procedures for approving plans recommended by CRAs that have not:

- Authorized a finding of necessity study by June 5, 2006;
- Created a CRA by December 31, 2006;
- Adopted a community redevelopment plan by March 7, 2007; and
- Been created by pursuant to a delegation of authority under s. 163.410, F.S., by a charter county.

The following additional procedures are required prior to adoption by the governing body of a community redevelopment plan:

- 1) Within 30 days after receipt of any community redevelopment plan recommended by a CRA sent by registered mail, the county may provide written notice to the governing body of the municipality that the county has competing policy goals and plans for the public funds the county would be required to contribute to the tax increment under the proposed community redevelopment plan.
- 2) If the county provides notice within 30 days as required by 1), the board of county commissioners and the governing body of the municipality that created the community redevelopment agency must schedule and hold a joint hearing co-chaired by the chair of the board of county commissioners and the municipal mayor at which the competing policy goals for the public funds must be discussed. Any such hearing must be held within 90 days after receipt by the county of the recommended community redevelopment plan. Prior to the joint public hearing, the county may propose an alternative redevelopment plan to address the conditions identified in the resolution making a finding of necessity required by s. 163.355, F.S. If the county proposes an alternative redevelopment plan, the alternative plan must be delivered to the governing body of the municipality that created the CRA at least 30 days prior to holding the joint meeting.
- 3) If the county provides notice within 30 days as required by 1), the municipality may not proceed with adoption of the plan until 30 days after the joint hearing unless the board of county commissioners failed to schedule and attend the joint hearing within the required 90-day period.

Notwithstanding the timeframes described above, the county and the municipality may at any time voluntarily use the dispute resolution process established in ch. 164, F.S., to attempt to resolve any competing policy goals between the county and municipality related to the CRA; however, a county or municipality may not require the other to participate in the voluntary dispute resolution process.

Section 5. Amends s. 163.361, F.S., relating to Modification of Redevelopment Plans

Currently, if at any time after the approval of a community redevelopment plan by the governing body of the city or county creating a CRA it becomes necessary or desirable to amend or modify the plan, the governing body may do so upon the recommendation of the CRA. The CRA recommendation to amend or modify a redevelopment plan may include a change in the boundaries of the redevelopment

area to add land to or exclude land from the redevelopment area, or may include the development and implementation of community policing innovations. The governing body must hold a public hearing on a proposed modification of any community redevelopment plan after public notice thereof by publication in a newspaper having a general circulation in the area of operation of the CRA.

Prior to the adoption of any modification to a community redevelopment plan that expands the boundaries of the community redevelopment area or extends the time certain set forth in the redevelopment plan, the CRA must report the proposed modification to each taxing authority in writing or by an oral presentation, or both, regarding the proposed modification.

This bill amends s. 163.361, F.S., to create additional procedures applicable to municipal CRAs that were not created pursuant to a delegation of authority by October 1, 2006 under s. 163.410, F.S., by a county that has adopted a home rule charter and that modifies its adopted community redevelopment plan in a manner that expands the boundaries of the redevelopment area, the following additional procedures are required prior to the governing body's adopting a modified community redevelopment plan:

- 1) Within 30 days after receipt of any report of a proposed modification that expands the boundaries of the redevelopment area, the county may provide notice by registered mail to the governing body of the municipality that the county has competing policy goals and plans for the public funds the county would be required to contribute to the tax increment under the proposed modification to the community redevelopment plan.
- 2) If the county provides notice within 30 days as required in 1), the board of county commissioners and the governing body of the municipality that created the community redevelopment agency must schedule and hold a joint hearing co-chaired by the chair of the board of county commissioners and the municipal mayor at which the competing policy goals for the public funds must be discussed. Any such hearing must be held within 90 days after receipt by the county of the recommended modification of the adopted community redevelopment plan. Prior to the joint public hearing, the county may propose an alternative modified community redevelopment plan to address the conditions identified in the resolution making a finding of necessity required under s. 163.355, F.S. If the county proposes an alternative redevelopment plan, the plan must be delivered to the governing body of the municipality that created the community redevelopment agency at least 30 days prior to the joint meeting.
- 3) If the county provides notice within 30 days as required in 1), the municipality may not proceed with the adoption of the proposed modification to the community redevelopment plan until 30 days after the joint hearing unless the board of county commissioners failed to schedule and attend the joint hearing within the required 90-day period.

Notwithstanding the timeframes established above, the county and the municipality may at any time voluntarily use the dispute resolution process established in ch. 164, F.S., to attempt to resolve any competing policy goals between the county and municipality related to the expansion of the boundaries of the community redevelopment area; however, the county or the municipality may not require the other to participate in the voluntary dispute resolution process.

Section 6. Amends s. 163.370, F.S., relating to Powers of Counties and Municipalities

Section 163.370, F.S. is amended to provide clarifying language and to remove a limitation on the use of tax increment funds for certain installation, construction, reconstruction, repair or alteration of publicly owned capital improvement projects if 3 years have expired since the removal of the project from the CRA capital improvement plan. The bill also restricts tax increments funds from being used for payments or reimbursements for services provided to the agency by any public body. Further, the bill limits a CRA from utilizing eminent domain authority prior to the governing body's approval of a community redevelopment plan or plan modification.

Section 7. Amends s. 163.387, F.S., relating to the Redevelopment Trust Fund

Section 163.387, F.S., requires the establishment of a redevelopment trust fund into which all tax increment revenues are deposited. This section establishes the mechanism for calculating the tax increment revenues deposited into the trust fund for redevelopment purposes. The existing required calculation method provides that the increment is determined annually as the amount equal to 95% of the difference between the annual ad valorem taxes on real property within the CRA and the ad valorem taxes on those properties prior to the creation of the CRA. Additionally, existing law provides that the ordinance created after July 1, 1994 providing for funding of the redevelopment trust fund may provide for an increment less than 95% but no less than 50% of the difference in ad valorem taxes described above.

The bill provides an alternative method for calculating the required tax increment revenues from a taxing authority for CRAs that meet specific requirements. However, the bill provides that an interlocal agreement between the CRA and a taxing authority may establish a different methodology than the required or alternative methodologies.

Alternative methodology: The bill limits the taxing authority of certain CRAs that do not comply with the following requirements:

- Have authorized a finding of necessity study by June 5, 2006;
- Have created a CRA by December 31, 2006;
- Have adopted a community redevelopment plan by March 7, 2007; and
- Been created by pursuant to a delegation of authority under s. 163.410, F.S., by a charter county.

For those CRAs, the taxing authority is limited as follows:

- a. If a taxing authority imposes a millage rate that exceeds the millage rate imposed by the governing body that created the trust fund, the amount of tax increment to be contributed by the taxing authority imposing the higher millage rate is calculated using the millage rate imposed by the governing body that created the trust fund; however, a taxing authority may voluntarily contribute tax increment at a higher rate for a period of time as specified by interlocal agreement between the taxing authority and the community redevelopment agency.
- b. At any time more than 24 years after the fiscal year in which a taxing authority made its first contribution to a redevelopment trust fund, the taxing authority, by resolution effective no sooner than the next fiscal year and adopted by majority vote of the taxing authority's governing body at a public hearing held not less than 30 or more than 45 days after written notice by registered mail delivered to the community redevelopment agency and published in a newspaper of general circulation in the redevelopment area, may limit the amount of increment contributed by the taxing authority to the trust fund to the average annual amount the taxing authority was obligated to contribute to the trust fund in the fiscal year immediately preceding the adoption of such resolution, plus any increase in the increment after the adoption of the resolution computed using the taxable values of any area which is subject to an area reinvestment agreement. The term "area reinvestment agreement" is defined as "an agreement between the community redevelopment agency and a private party, with or without additional parties, which provides that the increment computed for a specific area shall be reinvested in public infrastructure or services, or both, including debt service, supporting one or more projects consistent with the community redevelopment plan that is identified in the agreement to be constructed within that area." A reinvestment agreement must specify the estimated total amount of public investment necessary to provide the public infrastructure or services, or both, including any applicable debt service. The increase in the increment of any area that is subject to an area reinvestment agreement following the passage of the above-required resolution ceases when the amount specified in the area reinvestment agreement as necessary to provide the public infrastructure or services, or both, including any applicable debt service, have been invested.

Additionally, for any CRA that was not created pursuant to a delegation of authority under s. 163.410, F.S., by a county that has adopted a home rule charter and that modifies its adopted community redevelopment plan after October 1, 2006, in a manner that expands the boundaries of the redevelopment area, the amount of increment to be contributed by any taxing authority with respect to the expanded area is limited as set forth in s. 163.387(1)(b)1.a. and b., F.S.

Interest waiver: The bill provides that a CRA may waive some or all of the penalty payments imposed upon any taxing authority that fails to timely pay the required increment revenues into the trust fund.

Section 8. Amends s. 163.410, F.S., relating to Charter Counties

Currently, s. 163.410, F.S., provides that in a charter county, the powers conferred by the Act must be exercised exclusively by the governing body of the county unless the county governing body delegates the power, by resolution, to the governing body of a municipality. A delegation to a municipality confers only those powers that are specifically enumerated in the delegating resolution. Any power not specifically delegated is reserved exclusively to the county governing body. This provision does not, however, affect any CRA created by a municipality prior to the adoption of a county home rule charter.

Unless otherwise provided by an existing ordinance, resolution, or interlocal agreement between a charter county and a municipality, the charter county governing body must “act on” any request from a municipality for a delegation of powers or a change in an existing delegation of powers within 120 days after the receipt of all required documentation or such request must be immediately sent to the county governing body for consideration.

This bill amends s. 163.410, F.S., to require the county to “approve or deny” a request for a delegation within 120 days after receipt of all required documentation. If the charter county does not approve or deny the request within that timeframe, the request is deemed granted. Any request by the county for additional documentation or other information must be made in writing by registered mail to the municipality. The bill provides a 30 day period within which the county must notify the municipality if additional documentation is needed to support the request. The bill specifies how the county must request additional documentation if needed, and provides another 30 day period for review of the additional documentation and completeness notification. The county must notify the municipality in writing by registered mail within 30 days after receiving all the required documentation and other requested information that such information is complete. If the meeting of the county commission at which the request for a delegation of powers or a change in an existing delegation of powers is unable to be held due to events beyond the control of the county, the request must be acted upon at the next regularly scheduled meeting of the county commission without regard to the 120-day limitation. If the county does not act upon the request at the next regularly scheduled meeting, the request is deemed granted

C. SECTION DIRECTORY:

- Section 1. Amending s. 163.340, F.S.; defining the term “taxing authority”; amending the definitions of “public body” and “community redevelopment area.”
- Section 2. Amending s. 163.346, F.S.; revising a requirement that a governing body notify taxing authorities before taking certain actions.
- Section 3. Creating s. 163.354, F.S.; authorizing the adoption of a resolution establishing a slum and blight study area before making a finding of necessity.
- Section 4. Amending s. 163.360, F.S.; specifying additional notice, hearing, and dispute resolution procedures for adoption of a community redevelopment plan for certain community redevelopment agencies.
- Section 5. Amending s. 163.361, F.S.; specifying additional notice, hearing, and dispute resolution procedures for adoption of a modified community redevelopment plan expanding redevelopment area boundaries for certain community redevelopment agencies.
- Section 6. Amending s. 163.370, F.S.; providing clarifying language and removing a limitation on the use of tax increment funds for certain installation, construction, reconstruction, repair or alteration of publicly owned capital improvement projects if 3 years have expired since

- the removal of the project from the CRA capital improvement plan; restricting use of tax increment funds; prohibits the use of eminent domain prior to governing body approval of a community redevelopment plan or plan modification.
- Section 7. Amending s. 163.387, F.S.; providing an alternative method of determining the increment required to be contributed by taxing authorities within a CRA; providing authority for an interlocal agreement to establish a different method; authorizing a partial or complete wavier of penalty for failure to timely contribute increment.
- Section 8. Amending s. 163.410, F.S.; providing requirements for actions by certain counties delegating or changing a delegation of powers to a municipality for community redevelopment areas.
- Section 9. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: This bill provides limitations on the required contributions of a taxing authority in a CRA in certain circumstances. It also allows for an alternative method of calculating the amount, times of payment, and interest on increment revenues.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 29, 2006, the Local Government Council adopted a strike-all amendment to the bill for the purpose of clarifying provisions in the bill as filed. The strike-all amendment does the following:

- Amends s. 163.340(10), F.S., the definition of “community redevelopment area” (CRA) to provide that a CRA cannot consist of more than 80% of the municipality without the county’s approval.
- Amends s. 163.340(24), F.S., the definition of “taxing authority” to provide that the definition applies to any public body excluding a public body exempted from the obligation to appropriate increment revenues to a redevelopment trust fund pursuant to s. 163.387(2), F.S.
- For CRA plan development, the amendment changes the criteria identifying those CRAs for which additional procedures are required. Additionally, the amendment allows, rather than requires, the county to provide written notice by registered mail if the county has competing policy goals and plans for the public funds it would be required to contribute to the tax increment under the CRA plan. When the county provides such notice, the amendment provides for a public hearing chaired by both the county chair and the municipal mayor. Further the amendment provides a process by which the county may propose and submit an alternative redevelopment plan.
- Establishes October 1, 2006, as the date after which certain CRAs may not expand their boundaries without following additional procedures.
- For CRA plan modification, the amendment provides for a joint public hearing chaired by both the county chair and municipal mayor. Further, the amendment provides a process by which the county may propose and submit an alternative redevelopment plan.
- Changes, the time period regulating when the municipality may proceed with the plan adoption to 30 days from 45 days.
- Amends s. 163.370, F.S., to accomplish clarifying edits and to remove a limitation on the use of tax increment funds for certain installation, construction, reconstruction, repair or alteration of publicly owned capital improvement projects if 3 years have expired since the removal of the project from the CRA capital improvement plan.
- Provides that generally government operating expenses, including payments or reimbursements for services provided to the agency by any public body, unrelated to the planning and carrying out of a community redevelopment plan may not be paid for or financed by increment revenues.
- Allows, rather than requires, a CRA to establish a redevelopment trust fund and prohibits the collection or use of tax increment funds until such a trust fund is established; and authorizes an interlocal agreement that may establish a tax increment different than the one statutorily established.
- Provides that the community redevelopment plan must include a time certain that a CRA may receive or spend any increment revenues from the trust fund.
- Authorizes an interlocal agreement between the taxing authorities contributing that may determine the increment and percentage different than that provided in current law.
- Limits the taxing authority for any CRA that had not authorized a finding of necessity study by June 5, 2006, and that had not created the CRA by December 31, 2006, and that had not adopted a community redevelopment plan by March 7, 2007.
- Changes the time after which a resolution can be passed to limit the amount of increment contributed by the taxing authority to the trust fund in the fiscal year immediately preceding the adoption of such resolution.
- Provides that a CRA may waive the penalty, in whole or in part, for a taxing authority that fails to pay the increment revenues to the trust fund by January 1 of each year.
- Provides exemptions for certain entities from the requirements relating to taxing authorities found in s. 163.387 (2)(a), F.S.
- Provides that an interlocal agreement between any of the other taxing authorities and the governing body that created the Community Redevelopment Agency may supercede the requirement that the governing body fund the redevelopment trust fund annually shall continue until all loans, advances, and indebtedness, and interest thereon, of a Community Redevelopment Agency incurred as a result of redevelopment in a CRA have been paid.
- Provides that moneys in the redevelopment trust fund may be expended pursuant to the community redevelopment plan.
- Provides that expenses that can be paid from tax increment within the redevelopment trust fund include services provided by another public body.
- Provides that the CRA can spend moneys from the redevelopment trust fund to relocate residents either within or outside the CRA.

- Provides that moneys appropriated to a specific redevelopment project pursuant to an approved community redevelopment plan must be expended within 3 years from the date of the appropriation. Existing law requires the project to be completed within 3 years.
- Provides that rather than be sent immediately to the governing body for consideration, any request from a municipality to a governing body of the county that has adopted a home rule charter for a delegation of powers or a change in an existing delegation of powers within 120 days after the receipt of all required documentation or such request shall be deemed granted if not granted in whole or in part or denied. The amendment further provides the following requirements for handling such a request:
 - Within 30 days of receipt of the request, the county shall notify by registered mail whether the request is complete or if additional documentation is required.
 - The county shall notify the municipality by registered mail within 30 days whether such additional documentation is complete.
 - Any request by the county for additional documentation shall specify the deficiencies in the submitted documentation, if any.
 - The county shall notify the municipality by registered mail within 30 days after receiving the additional documentation whether such information is complete.
 - If the meeting of the county commission at which the request for a delegation of powers or a change in existing delegation of powers is unable to be held due to events beyond the control of the county, the request shall be acted upon at the next regularly scheduled meeting of the county commission without regard to the 120-day limitation.
 - Should the county not act upon the request at the next regularly scheduled meeting, the request shall be deemed granted.

On April 4, 2006, the Growth Management Committee adopted a strike all amendment to HB 1583 w/CS. The amendment accomplished the following:

- Amends s. 163.340, F.S., to revise the definition of "community redevelopment area" and create a definition of "taxing authority."
- Amends s. 163.360(6)(b), F.S., to provide that additional procedures apply to CRAs creating a community redevelopment plan unless the CRA meets certain criteria.
- Amends s. 163.361(3)(b), F.S., to provide that additional procedures apply to CRAs extending its boundaries unless the CRA meets certain criteria.
- Amends s. 163.370, F.S., to conform cross-references and to provide technical and clarifying language.
- Amends s. 163.387(1)(a), F.S., to provide that the contribution to the trust fund can be as specified in an interlocal agreement.
- Amends s. 163.387(1)(b)1., F.S., to revise the cap that counties can place on the growth in increment from the 20th year to 25th year.
- Amends s. 163.387(2)(b), F.S., to authorize a CRA to fully or partially waive penalty payments for failure to timely submit contributions.
- Amends s. 163.387(3)(b), F.S., to revise language allowing for interlocal agreements to provide for alternative financing arrangements and to provide that interlocal agreements could supercede statute.
- Amends s. 163.387(6), F.S., to clarify that funds can be spent according to the redevelopment plan
- Amends s. 163.387(6)(a), F.S., clarifying that the expenses that can be paid from tax increment include services provided by another body.
- Amends s. 163.387(6)(d), F.S., to clarify that a CRA can spend funds to relocate resident either within or outside the CRA.
- Amends s. 163.410, F.S., to revise the manner in which the exchange of information occurs when a municipality requests delegation authority from a charter county.

HB 1583 CS

2006
CS

CHAMBER ACTION

The Growth Management Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to community redevelopment; amending s. 163.340, F.S.; revising certain definitions; defining the term "taxing authority"; amending s. 163.346, F.S.; revising criteria for a notice to taxing authorities; creating s. 163.354, F.S.; authorizing a local governing body to adopt a resolution establishing a slum and blight study area under certain circumstances; amending s. 163.360, F.S.; specifying additional procedures required for adoption of community redevelopment plans by the governing body of certain counties for certain community redevelopment agencies; amending s. 163.361, F.S.; specifying additional procedures required for adoption of a modified community redevelopment plan by a governing body of certain counties for certain community redevelopment agencies; amending s. 163.370, F.S.; revising provisions relating to powers of counties, municipalities, and community redevelopment agencies; revising provisions relating to projects ineligible for

HB 1583 CS

2006
CS

24 increment revenues; amending s. 163.387, F.S.; revising
25 provisions relating to redevelopment trust funds;
26 providing limitations on the amount of tax increment
27 contributions by a taxing authority for certain community
28 redevelopment agencies; authorizing a community
29 redevelopment agency to waive certain increment payment
30 penalties; authorizing alternate provisions in certain
31 interlocal agreements to supersede certain provisions of
32 law; amending s. 163.410, F.S.; providing additional
33 requirements for requests for information relating to
34 requests for delegation of certain powers; providing an
35 effective date.

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 Section 1. Subsections (2) and (10) of section 163.340,
40 Florida Statutes, are amended, and subsection (24) is added to
41 that section, to read:

42 163.340 Definitions.--The following terms, wherever used
43 or referred to in this part, have the following meanings:

44 (2) "Public body" ~~or "taxing authority"~~ means the state or
45 any county, municipality, authority, special district as defined
46 in s. 165.031(5), or other public body of the state, except a
47 school district.

48 (10) "Community redevelopment area" means a slum area, a
49 blighted area, or an area in which there is a shortage of
50 housing that is affordable to residents of low or moderate
51 income, including the elderly, or a coastal and tourist area

HB 1583 CS

2006
CS

52 that is deteriorating and economically distressed due to
53 outdated building density patterns, inadequate transportation
54 and parking facilities, faulty lot layout or inadequate street
55 layout, or a combination thereof which the governing body
56 designates as appropriate for community redevelopment. For
57 community redevelopment agencies created after July 1, 2006, a
58 community redevelopment area may not consist of more than 80
59 percent of the municipality without approval by the county.

60 (24) "Taxing authority" means a public body that levies an
61 ad valorem tax on real property located in a community
62 redevelopment area. The term excludes a public body exempted
63 pursuant to s. 163.387(2) from the obligation to appropriate
64 increment revenues to a redevelopment trust fund.

65 Section 2. Section 163.346, Florida Statutes, is amended
66 to read:

67 163.346 Notice to taxing authorities.--Before the
68 governing body adopts any resolution or enacts any ordinance
69 required under s. 163.354, s. 163.355, s. 163.356, s. 163.357,
70 or s. 163.387; establishes a study area; creates a community
71 redevelopment agency; approves, adopts, or amends a community
72 redevelopment plan; or issues redevelopment revenue bonds under
73 s. 163.385, the governing body must provide public notice of
74 such proposed action pursuant to s. 125.66(2) or s.
75 166.041(3)(a) and, at least 15 days before such proposed action,
76 mail by registered mail a notice to each taxing authority which
77 levies ad valorem taxes on taxable real property contained
78 within the geographic boundaries of the redevelopment area.

HB 1583 CS

2006
CS

79 Section 3. Section 163.354, Florida Statutes, is created
80 to read:

81 163.354 Development of study area.--Prior to adopting a
82 resolution making a finding of necessity required by s. 163.355,
83 the governing body may adopt a resolution establishing a slum
84 and blight study area.

85 Section 4. Paragraph (d) is added to subsection (2) of
86 section 163.360, Florida Statutes, and subsection (6) of that
87 section is amended, to read:

88 163.360 Community redevelopment plans.--

89 (2) The community redevelopment plan shall:

90 (d) The agency may contract with qualified nonprofit
91 organizations, faith-based organizations, or other entities to
92 develop and provide affordable and workforce housing in the
93 redevelopment area and use tax increment dollars to offer
94 incentives for such development, including, but not limited to,
95 low interest or no interest loans through qualified lenders or
96 the agency itself; revolving loans; façade improvement loans or
97 grants; matching, seed, or leverage dollars for loans or grants;
98 developer subsidies; and any other incentives determined to be
99 needed by the agency. For purposes of this paragraph, the term
100 "affordable housing" means housing that meets the definition of
101 affordable under s. 420.0004(3) and the term "workforce housing"
102 means housing for which the monthly rents or monthly mortgage
103 payments, including taxes, insurance, and utilities, do not
104 exceed 30 percent of that amount which represents the percentage
105 of the median adjusted gross annual income for the households
106 whose income is 150 percent of the median income of the area.

Page 4 of 25

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hb1583-02-c2

HB 1583 CS

2006
CS

(6) (a) The governing body shall hold a public hearing on a community redevelopment plan after public notice thereof by publication in a newspaper having a general circulation in the area of operation of the county or municipality. The notice shall describe the time, date, place, and purpose of the hearing, identify generally the community redevelopment area covered by the plan, and outline the general scope of the community redevelopment plan under consideration.

(b) For any community redevelopment agency that had not authorized a finding of necessity study by June 5, 2006, had not created a community redevelopment agency by December 31, 2006, had not adopted a community redevelopment plan by March 7, 2007, and was not created pursuant to a delegation of authority under s. 163.410 by a county that has adopted a home rule charter, the following additional procedures are required prior to adoption by the governing body of a community redevelopment plan under subsection (7):

1. Within 30 days after receipt of any community redevelopment plan recommended by a community redevelopment agency under subsection (5), the county may provide written notice by registered mail to the governing body of the municipality that the county has competing policy goals and plans for the public funds the county would be required to contribute to the tax increment under the proposed community redevelopment plan.

2. If the notice required in subparagraph 1. is timely provided, the board of county commissioners and the governing body of the municipality that created the community

HB 1583 CS

2006
CS

135 redevelopment agency shall schedule and hold a joint hearing co-
136 chaired by the county commission chair and the mayor of the
137 municipality, with the agenda to be set by the county commission
138 chair, at which the competing policy goals for the public funds
139 shall be discussed. Any such hearing must be held within 90 days
140 after receipt by the county of the recommended community
141 redevelopment plan. Prior to the joint public hearing, the
142 county may propose an alternative redevelopment plan to address
143 the conditions identified in the resolution making a finding of
144 necessity required by s. 163.355. If such an alternative
145 modified redevelopment plan is proposed by the county, such plan
146 shall be delivered to the governing body of the municipality
147 that created the community redevelopment agency at least 30 days
148 prior to holding the joint meeting.

149 3. If the notice required in subparagraph 1. is timely
150 provided, the municipality may not proceed with the adoption of
151 the plan under subsection (7) until 30 days after the joint
152 hearing unless the board of county commissioners has failed to
153 schedule and attend the joint hearing within the required 90-day
154 period.

155 4. Notwithstanding the time requirements established in
156 subparagraphs 2. and 3., the county and the municipality may at
157 any time voluntarily use the dispute resolution process
158 established in chapter 164 to attempt to resolve any competing
159 policy goals between the county and municipality related to the
160 community redevelopment agency. Nothing in this subparagraph
161 grants the county or the municipality the authority to require

HB 1583 CS

2006
CS

the other local government to participate in the dispute
resolution process.

Section 5. Subsection (3) of section 163.361, Florida
Statutes, is amended to read:

163.361 Modification of community redevelopment plans.--

(3)(a) In addition to the requirements of s. 163.346, and
prior to the adoption of any modification to a community
redevelopment plan that expands the boundaries of the community
redevelopment area or extends the time certain set forth in the
redevelopment plan as required by s. 163.362(10), the agency
shall report such proposed modification to each taxing authority
in writing or by an oral presentation, or both, regarding such
proposed modification.

(b) For any community redevelopment agency that was not
created pursuant to a delegation of authority under s. 163.410
by a county that has adopted a home rule charter and that
modifies its adopted community redevelopment plan in a manner
that expands the boundaries of the redevelopment area after
October 1, 2006, the following additional procedures are
required prior to adoption by the governing body of a modified
community redevelopment plan:

1. Within 30 days after receipt of any report of a
proposed modification that expands the boundaries of the
redevelopment area, the county may provide notice by registered
mail to the governing body of the municipality that the county
has competing policy goals and plans for the public funds the
county would be required to contribute to the tax increment

HB 1583 CS

2006
CS

189 under the proposed modification to the community redevelopment
190 plan.

191 2. If the notice required in subparagraph 1. is timely
192 provided, the board of county commissioners and the governing
193 body of the municipality that created the community
194 redevelopment agency shall schedule and hold a joint hearing co-
195 chaired by the county commission chair and the mayor of the
196 municipality, with the agenda to be set by the county commission
197 chair, at which the competing policy goals for the public funds
198 shall be discussed. Any such hearing shall be held within 90
199 days after receipt by the county of the recommended modification
200 of the adopted community redevelopment plan. Prior to the joint
201 public hearing, the county may propose an alternative modified
202 community redevelopment plan to address the conditions
203 identified in the resolution making a finding of necessity
204 required under s. 163.355. If such an alternative modified
205 redevelopment plan is proposed by the county, such plan shall be
206 delivered to the governing body of the municipality that created
207 the community redevelopment agency at least 30 days prior to
208 holding the joint meeting.

209 3. If the notice required in subparagraph 1. is timely
210 provided, the municipality may not proceed with the adoption of
211 the plan under s. 163.360(7) until 30 days after the joint
212 hearing unless the board of county commissioners has failed to
213 schedule and attend the joint hearing within the required 90-day
214 period.

215 4. Notwithstanding the time requirements established in
216 subparagraphs 2. and 3., the county and the municipality may at

HB 1583 CS

2006
CS

217 any time voluntarily use the dispute resolution process
218 established in chapter 164 to attempt to resolve any competing
219 policy goals between the county and municipality related to the
220 community redevelopment agency. Nothing in this subparagraph
221 grants the county or the municipality the authority to require
222 the other local government to participate in the dispute
223 resolution process.

224 Section 6. Paragraphs (c), (e), (h), and (n) of subsection
225 (1), paragraphs (b) and (c) of subsection (2), and paragraph (a)
226 of subsection (3) of section 163.370, Florida Statutes, are
227 amended to read:

228 163.370 Powers; counties and municipalities; community
229 redevelopment agencies.--

230 (1) Every county and municipality shall have all the
231 powers necessary or convenient to carry out and effectuate the
232 purposes and provisions of this part, including the following
233 powers in addition to others herein granted:

234 (c) To undertake and carry out community redevelopment and
235 related activities within the community redevelopment area,
236 which ~~redevelopment~~ may include:

237 1. Acquisition of a slum area or a blighted area or
238 portion thereof.

239 2. Demolition and removal of buildings and improvements.

240 3. Installation, construction, or reconstruction of
241 streets, utilities, parks, playgrounds, public areas of major
242 hotels that are constructed in support of convention centers,
243 including meeting rooms, banquet facilities, parking garages,
244 lobbies, and passageways, and other improvements necessary for

HB 1583 CS

2006
CS

245 carrying out in the community redevelopment area the community
246 redevelopment objectives of this part in accordance with the
247 community redevelopment plan.

248 4. Disposition of any property acquired in the community
249 redevelopment area at its fair value for uses in accordance with
250 the community redevelopment plan as provided in s. 163.380.

251 5. Carrying out plans for a program of voluntary or
252 compulsory repair and rehabilitation of buildings or other
253 improvements in accordance with the community redevelopment
254 plan.

255 6. Acquisition of real property in the community
256 redevelopment area which, under the community redevelopment
257 plan, is to be repaired or rehabilitated for dwelling use or
258 related facilities, repair or rehabilitation of the structures
259 for guidance purposes, and resale of the property.

260 7. Acquisition of any other real property in the community
261 redevelopment area when necessary to eliminate unhealthful,
262 unsanitary, or unsafe conditions; lessen density; eliminate
263 obsolete or other uses detrimental to the public welfare; or
264 otherwise to remove or prevent the spread of blight or
265 deterioration or to provide land for needed public facilities.

266 8. Acquisition, without regard to any requirement that the
267 area be a slum or blighted area, of air rights in an area
268 consisting principally of land in highways, railway or subway
269 tracks, bridge or tunnel entrances, or other similar facilities
270 which have a blighting influence on the surrounding area and
271 over which air rights sites are to be developed for the
272 elimination of such blighting influences and for the provision

HB 1583 CS

2006
CS

of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income.

9. Construction of foundations and platforms necessary for the provision of air rights sites of housing (and related facilities and uses) designed specifically for, and limited to, families and individuals of low or moderate income.

(e) Within the community redevelopment area:

1. To enter into any building or property in any community redevelopment area in order to make inspections, surveys, appraisals, soundings, or test borings and to obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

2. To acquire by purchase, lease, option, gift, grant, bequest, devise, eminent domain, or otherwise any personal or real property ~~(or personal property for its administrative purposes)~~, together with any improvements thereon; except that a community redevelopment agency may not exercise any power of eminent domain unless the exercise has been specifically approved by the governing body ~~of the county or municipality which established the agency.~~

3. To hold, improve, clear, or prepare for redevelopment any such property.

4. To mortgage, pledge, hypothecate, or otherwise encumber or dispose of any real property.

5. To insure or provide for the insurance of any real or personal property or operations of the county or municipality

HB 1583 CS

2006
CS

300 against any risks or hazards, including the power to pay
301 premiums on any such insurance.

302 6. To enter into any contracts necessary to effectuate the
303 purposes of this part.

304 7. To solicit requests for proposals for redevelopment of
305 parcels of real property contemplated by a community
306 redevelopment plan to be acquired for redevelopment purposes by
307 a community redevelopment agency and, as a result of such
308 requests for proposals, to advertise for the disposition of such
309 real property to private persons pursuant to s. 163.380 prior to
310 acquisition of such real property by the community redevelopment
311 agency.

312 (h) ~~Within its area of operation,~~ To make or have made all
313 surveys and plans necessary to the carrying out of the purposes
314 of this part; to contract with any person, public or private, in
315 making and carrying out such plans; and to adopt or approve,
316 modify, and amend such plans, which plans may include, but are
317 not limited to:

318 1. Plans for carrying out a program of voluntary or
319 compulsory repair and rehabilitation of buildings and
320 improvements.

321 2. Plans for the enforcement of state and local laws,
322 codes, and regulations relating to the use of land and the use
323 and occupancy of buildings and improvements and to the
324 compulsory repair, rehabilitation, demolition, or removal of
325 buildings and improvements.

HB 1583 CS

2006
CS

3. Appraisals, title searches, surveys, studies, and other plans and work necessary to prepare for the undertaking of community redevelopment and related activities.

(n) ~~Within its area of operation,~~ To organize, coordinate, and direct the administration of the provisions of this part, as they may apply to such county or municipality, in order that the objective of remedying slum and blighted areas and preventing the causes thereof within such county or municipality may be most effectively promoted and achieved and to establish such new office or offices of the county or municipality or to reorganize existing offices in order to carry out such purpose most effectively.

(2) The following projects may not be paid for or financed by increment revenues:

(b) Installation, construction, reconstruction, repair, or alteration of any publicly owned capital improvements or projects ~~which are not an integral part of or necessary for carrying out the community redevelopment plan if such projects or improvements are normally financed by the governing body with user fees or if such projects or improvements~~ were scheduled to ~~would~~ be installed, constructed, reconstructed, repaired, or altered within 3 years of the approval of the community redevelopment plan by the governing body pursuant to a previously approved public capital improvement or project schedule or plan of the governing body which approved the community redevelopment plan unless and until such projects or improvements have been removed from such schedule or plan of the governing body and 3 years have elapsed since such removal.

HB 1583 CS

2006
CS

(c) General government operating expenses, including payments or reimbursements for services provided to the agency by any public body, unrelated to the planning and carrying out of a community redevelopment plan.

(3) With the approval of the governing body, a community redevelopment agency may:

(a) Prior to approval of a community redevelopment plan or approval of any modifications of the plan, acquire real property in a community redevelopment area, demolish and remove any structures on the property, and pay all costs related to the acquisition, demolition, or removal, including any administrative or relocation expenses, provided such acquisition is not pursuant to s. 163.375.

Section 7. Subsection (1), paragraphs (a), (b), and (c) of subsection (2), and subsections (3) through (8) of section 163.387, Florida Statutes, are amended to read:

163.387 Redevelopment trust fund.--

(1)(a) After approval of a community redevelopment plan, there may ~~shall~~ be established for each community redevelopment agency created under s. 163.356 a redevelopment trust fund. Funds allocated to and deposited into this fund shall be used by the agency to finance or refinance any community redevelopment it undertakes pursuant to the approved community redevelopment plan. No community redevelopment agency may receive or spend any increment revenues pursuant to this section unless and until the governing body has, by ordinance, created the trust fund and provided for the funding of the redevelopment trust fund until the time certain set forth in the ~~for the duration of a~~

HB 1583 CS

2006
CS

community redevelopment plan as required by s. 163.362(10). Such ordinance may be adopted only after the governing body has approved a community redevelopment plan. The annual funding of the redevelopment trust fund shall be in an amount not less than that increment in the income, proceeds, revenues, and funds of each taxing authority derived from or held in connection with the undertaking and carrying out of community redevelopment under this part. Absent an interlocal agreement between the taxing authorities contributing to the trust fund created pursuant to this section, such increment shall be determined annually and shall be that amount equal to 95 percent of the difference between:

1.(a) The amount of ad valorem taxes levied each year by each taxing authority, exclusive of any amount from any debt service millage, on taxable real property contained within the geographic boundaries of a community redevelopment area; and

2.(b) The amount of ad valorem taxes which would have been produced by the rate upon which the tax is levied each year by or for each taxing authority, exclusive of any debt service millage, upon the total of the assessed value of the taxable real property in the community redevelopment area as shown upon the most recent assessment roll used in connection with the taxation of such property by each taxing authority prior to the effective date of the ordinance providing for the funding of the trust fund.

However, the governing body of any county as defined in s. 125.011(1) may, in the ordinance providing for the funding of a

HB 1583 CS

2006
CS

410 trust fund established with respect to any community
411 redevelopment area created on or after July 1, 1994, determine
412 that the amount to be funded by each taxing authority annually
413 shall be less than 95 percent of the difference between
414 subparagraphs 1. and 2. paragraphs (a) and (b), but in no event
415 shall such amount be less than 50 percent of such difference.

416 (b)1. For any community redevelopment agency that had not
417 authorized a finding of necessity study by June 5, 2006, had not
418 created a community redevelopment agency by December 31, 2006,
419 had not adopted a community redevelopment plan by March 7, 2007,
420 and was not created pursuant to a delegation of authority under
421 s. 163.410 by a county that has adopted a home rule charter, the
422 amount of tax increment to be contributed by any taxing
423 authority shall be limited as follows:

424 a. If a taxing authority imposes a millage rate that
425 exceeds the millage rate imposed by the governing body that
426 created the trust fund, the amount of tax increment to be
427 contributed by the taxing authority imposing the higher millage
428 rate shall be calculated using the millage rate imposed by the
429 governing body that created the trust fund. Nothing shall
430 prohibit any taxing authority from voluntarily contributing a
431 tax increment at a higher rate for a period of time as specified
432 by interlocal agreement between the taxing authority and the
433 community redevelopment agency.

434 b. At any time more than 24 years after the fiscal year in
435 which a taxing authority made its first contribution to a
436 redevelopment trust fund, by resolution effective no sooner than
437 the next fiscal year and adopted by majority vote of the taxing

HB 1583 CS

2006
CS

438 authority's governing body at a public hearing held not less
439 than 30 or more than 45 days after written notice by registered
440 mail to the community redevelopment agency and published in a
441 newspaper of general circulation in the redevelopment area, the
442 taxing authority may limit the amount of increment contributed
443 by the taxing authority to the redevelopment trust fund to the
444 amount of increment the taxing authority was obligated to
445 contribute to the redevelopment trust fund in the fiscal year
446 immediately preceding the adoption of such resolution, plus any
447 increase in the increment after the adoption of the resolution
448 computed using the taxable values of any area which is subject
449 to an area reinvestment agreement. As used in this subparagraph,
450 the term "area reinvestment agreement" means an agreement
451 between the community redevelopment agency and a private party,
452 with or without additional parties, which provides that the
453 increment computed for a specific area shall be reinvested in
454 public infrastructure or services, or both, including debt
455 service, supporting one or more projects consistent with the
456 community redevelopment plan that is identified in the agreement
457 to be constructed within that area. Any such reinvestment
458 agreement must specify the estimated total amount of public
459 investment necessary to provide the public infrastructure or
460 services, or both, including any applicable debt service. The
461 increase in the increment of any area that is subject to an area
462 reinvestment agreement following the passage of a resolution as
463 provided in this sub-subparagraph is limited to the amount
464 specified in the area reinvestment agreement as necessary to
465 provide the public infrastructure or services, or both,

Page 17 of 25

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hb1583-02-c2

HB 1583 CS

2006
CS

466 including any applicable debt service, that is the subject of
467 the agreement. The contribution to the redevelopment trust fund
468 of the increase in the increment of any area that is subject to
469 an area reinvestment agreement following the passage of a
470 resolution as provided in this sub-subparagraph shall cease when
471 the amount specified in the area reinvestment agreement as
472 necessary to provide the public infrastructure or services, or
473 both, including any applicable debt service, have been invested.

474 2. For any community redevelopment agency that was not
475 created pursuant to a delegation of authority under s. 163.410
476 by a county that has adopted a home rule charter and that
477 modifies its adopted community redevelopment plan after October
478 1, 2006, in a manner that expands the boundaries of the
479 redevelopment area, the amount of increment to be contributed by
480 any taxing authority with respect to the expanded area shall be
481 limited as set forth in sub-subparagraphs 1.a. and b.

482 (2)(a) Except for the purpose of funding the trust fund
483 pursuant to subsection (3), upon the adoption of an ordinance
484 providing for funding of the redevelopment trust fund as
485 provided in this section, each taxing authority shall, by
486 January 1 of each year, appropriate to the trust fund for so
487 long as any indebtedness pledging increment revenues to the
488 payment thereof is outstanding (but not to exceed 30 years) a
489 sum that is no less than the increment as defined and determined
490 in subsection (1) or paragraph (3)(b) accruing to such taxing
491 authority. If the community redevelopment plan is amended or
492 modified pursuant to s. 163.361(1), each such taxing authority
493 shall make the annual appropriation for a period not to exceed

HB 1583 CS

2006
CS

494 30 years after the date the governing body amends the plan.
495 However, for any agency created on or after July 1, 2002, each
496 taxing authority shall make the annual appropriation for a
497 period not to exceed 40 years after the fiscal year in which the
498 initial community redevelopment plan is approved or adopted.

499 (b) Any taxing authority that does not pay the increment
500 revenues to the trust fund by January 1 shall pay to the trust
501 fund an amount equal to 5 percent of the amount of the increment
502 revenues and shall pay interest on the amount of the unpaid
503 increment revenues equal to 1 percent for each month the
504 increment is outstanding, provided the agency may waive such
505 penalty payments in whole or in part.

506 (c) The following public bodies ~~or taxing authorities~~ are
507 exempt from paragraph (a):

508 1. A special district that levies ad valorem taxes on
509 taxable real property in more than one county.

510 2. A special district for which the sole available source
511 of revenue the district has the authority to levy is ad valorem
512 taxes at the time an ordinance is adopted under this section.
513 However, revenues or aid that may be dispensed or appropriated
514 to a district as defined in s. 388.011 at the discretion of an
515 entity other than such district shall not be deemed available.

516 3. A library district, except a library district in a
517 jurisdiction where the community redevelopment agency had
518 validated bonds as of April 30, 1984.

519 4. A neighborhood improvement district created under the
520 Safe Neighborhoods Act.

521 5. A metropolitan transportation authority.

HB 1583 CS

2006
CS

6. A water management district created under s. 373.069.

(3)(a) Notwithstanding the provisions of subsection (2), the obligation of the governing body which established the community redevelopment agency to fund the redevelopment trust fund annually shall continue until all loans, advances, and indebtedness, if any, and interest thereon, of a community redevelopment agency incurred as a result of redevelopment in a community redevelopment area have been paid.

(b) Alternate provisions contained in an interlocal agreement between any of the other taxing authorities and the governing body that created the community redevelopment agency may supersede the provisions of this part. The community redevelopment agency may be an additional party to any such agreement.

(4) The revenue bonds and notes of every issue under this part are payable solely out of revenues pledged to and received by a community redevelopment agency and deposited to its redevelopment trust fund. The lien created by such bonds or notes shall not attach until the increment revenues referred to herein are deposited in the redevelopment trust fund at the times, and to the extent that, such increment revenues accrue. The holders of such bonds or notes have no right to require the imposition of any tax or the establishment of any rate of taxation in order to obtain the amounts necessary to pay and retire such bonds or notes.

(5) Revenue bonds issued under the provisions of this part shall not be deemed to constitute a debt, liability, or obligation of the ~~local~~ governing body or the state or any

HB 1583 CS

2006
CS

political subdivision thereof, or a pledge of the faith and credit of the ~~local~~ governing body or the state or any political subdivision thereof, but shall be payable solely from the revenues provided therefor. All such revenue bonds shall contain on the face thereof a statement to the effect that the agency shall not be obligated to pay the same or the interest thereon except from the revenues of the community redevelopment agency held for that purpose and that neither the faith and credit nor the taxing power of the ~~local~~ governing body or of the state or of any political subdivision thereof is pledged to the payment of the principal of, or the interest on, such bonds.

(6) Moneys in the redevelopment trust fund may be expended from time to time for undertakings of a community redevelopment agency as described in the ~~which are directly related to financing or refinancing of redevelopment in a community redevelopment area pursuant to an approved~~ community redevelopment plan for the following purposes, including, but not limited to:

(a) Administrative and overhead expenses, including services provided by another public body, necessary or incidental to the implementation of a community redevelopment plan adopted by the agency.

(b) Expenses of redevelopment planning, surveys, and financial analysis, including the reimbursement of the governing body or the community redevelopment agency for such expenses incurred before the redevelopment plan was approved and adopted.

(c) The acquisition of real property in the redevelopment area.

HB 1583 CS

2006
CS

578 (d) The clearance and preparation of any redevelopment
579 area for redevelopment and relocation of site occupants within
580 or outside the community redevelopment area as provided in s.
581 163.370.

582 (e) The repayment of principal and interest or any
583 redemption premium for loans, advances, bonds, bond anticipation
584 notes, and any other form of indebtedness.

585 (f) All expenses incidental to or connected with the
586 issuance, sale, redemption, retirement, or purchase of agency
587 bonds, bond anticipation notes, or other form of indebtedness,
588 including funding of any reserve, redemption, or other fund or
589 account provided for in the ordinance or resolution authorizing
590 such bonds, notes, or other form of indebtedness.

591 (g) The development of affordable housing within the
592 community redevelopment area.

593 (h) The development of community policing innovations.

594 (7) On the last day of the fiscal year of the community
595 redevelopment agency, any money which remains in the trust fund
596 after the payment of expenses pursuant to subsection (6) for
597 such year shall be:

598 (a) Returned to each taxing authority ~~which paid the~~
599 ~~increment~~ in the proportion that the amount of the payment of
600 such taxing authority bears to the total amount paid into the
601 trust fund by all taxing authorities ~~within the redevelopment~~
602 ~~area~~ for that year;

603 (b) Used to reduce the amount of any indebtedness to which
604 increment revenues are pledged;

HB 1583 CS

2006
CS

605 (c) Deposited into an escrow account for the purpose of
606 later reducing any indebtedness to which increment revenues are
607 pledged; or

608 (d) Appropriated to a specific redevelopment project
609 pursuant to an approved community redevelopment plan which shall
610 be expended ~~project will be completed~~ within 3 years from the
611 date of such appropriation.

612 (8) Each community redevelopment agency shall provide for
613 an ~~independent financial~~ audit of the trust fund each fiscal
614 year and a report of such audit to be prepared by an independent
615 certified public accountant or firm. Such report shall describe
616 the amount and source of deposits into, and the amount and
617 purpose of withdrawals from, the trust fund during such fiscal
618 year and the amount of principal and interest paid during such
619 year on any indebtedness to which ~~is pledged~~ increment revenues
620 are pledged and the remaining amount of such indebtedness. The
621 agency shall provide by registered mail a copy of the report to
622 each taxing authority.

623 Section 8. Section 163.410, Florida Statutes, is amended
624 to read:

625 163.410 Exercise of powers in counties with home rule
626 charters.--In any county which has adopted a home rule charter,
627 the powers conferred by this part shall be exercised exclusively
628 by the governing body of such county. However, the governing
629 body of any such county which has adopted a home rule charter
630 may, in its discretion, by resolution delegate the exercise of
631 the powers conferred upon the county by this part within the
632 boundaries of a municipality to the governing body of such a

HB 1583 CS

2006
CS

633 municipality. Such a delegation to a municipality shall confer
634 only such powers upon a municipality as shall be specifically
635 enumerated in the delegating resolution. Any power not
636 specifically delegated shall be reserved exclusively to the
637 governing body of the county. This section does not affect any
638 community redevelopment agency created by a municipality prior
639 to the adoption of a county home rule charter. Unless otherwise
640 provided by an existing ordinance, resolution, or interlocal
641 agreement between any such county and a municipality, the
642 governing body of the county that has adopted a home rule
643 charter shall grant in whole or in part ~~act on~~ any request from
644 a municipality for a delegation of powers or a change in an
645 existing delegation of powers within 120 days after the receipt
646 of all required documentation or such request shall be deemed
647 granted. Within 30 days after receipt of the request, the county
648 shall notify the municipality by registered mail whether the
649 request is complete or if additional information is required.
650 The county shall notify the municipality by registered mail
651 within 30 days after receiving the additional information
652 whether such additional documentation is complete. Any request
653 by the county for additional documentation shall specify the
654 deficiencies in the submitted documentation, if any. The county
655 shall notify the municipality by registered mail within 30 days
656 after receiving the additional documentation whether such
657 information is complete. If the meeting of the county commission
658 at which the request for a delegation of powers or a change in
659 an existing delegation of powers is unable to be held due to
660 events beyond the control of the county, the request shall be

HB 1583 CS

2006
CS

661 acted upon at the next regularly scheduled meeting of the county
662 commission without regard to the 120-day limitation. If the
663 county does not act upon the request at the next regularly
664 scheduled meeting, the request shall be deemed granted
665 ~~immediately sent to the governing body for consideration.~~
666 Section 9. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1589 CS

Specialty License Plates

SPONSOR(S): Smith

TIED BILLS:

IDEN./SIM. BILLS: CS/CS/SB 2238

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Transportation Committee	14 Y, 1 N, w/CS	Thompson	Miller
2) Transportation & Economic Development Appropriations Committee	14 Y, 2 N	McAuliffe	Gordon
3) State Infrastructure Council		Thompson <i>JT.</i>	Havlicak <i>RH</i>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 1589 w/CS creates the "Homeownership For All" specialty license plate, and establishes an annual use fee of \$25 to be paid by purchasers in addition to license taxes and fees. The annual use fee will be distributed to Homeownership For All, Inc., to promote and market the license plate and to fund programs that provide, promote, or otherwise support affordable housing. Homeownership For All, Inc., the Florida non-profit corporation seeking authority for this plate, has submitted the information and application fee required by current law.

The bill also makes corrective and administrative changes to a number of existing specialty license plates:

- The bill changes the word "College" to "University" on the Florida Memorial College license plate;
- The bill provides for the allocation of 10 percent of the annual use fee from the Keep Kids Drug-Free license plates to be used for marketing and administrative costs directly related to the Keep Kids Drug-Free license plate; and
- The bill allows the Sportsmen's National Land Trust to retain 50 percent of the proceeds from the Florida Sportsmen's National Land Trust license plate until all of the startup costs for developing and establishing the plate have been recovered.

The fiscal impact of the bill of approximately \$60,000 on the Department of Highway Safety and Motor Vehicles (DHSMV) for implementation of the new specialty license plate will be offset by the application fees paid to DHSMV by the sponsoring organization.

The bill will take effect July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government - The bill appears to increase government because it requires DHSMV to develop and provide for the manufacture of a new license plate, and therefore requires county tax collectors offices to maintain an appropriate inventory and administer the new plate.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Background on Specialty License Plates

Currently, specialty license plates are available to any owner or lessee of a motor vehicle who is willing to pay an annual use fee for the privilege. Annual use fees ranging from \$15 to \$25, paid in addition to required license taxes and service fees, are distributed to an organization or organizations in support of a particular cause or charity signified in the plate's design and designated in statute. The Legislature may create a specialty license plate under its own initiative or it can do so at the request of an organization. Under s. 320.08053, F.S., an organization may seek Legislative authorization for a new specialty license plate by meeting a number of requirements.

An organization is first required to submit to the Department of Highway Safety and Motor Vehicles (DHSMV):

- A request for the plate describing it in general terms;
- The results of a professional, independent, and scientific sample survey of Florida residents indicating that 30,000 vehicle owners intend to purchase the plate at the increased cost;
- An application fee of up to \$60,000 defraying DHSMV's cost for reviewing the application, developing the new plate, and providing for the manufacture and distribution of the first run of plates; and
- A marketing strategy for the plate and a financial analysis of anticipated revenues and planned expenditures.

These requirements must be satisfied at least 90 days prior to the convening of the regular session of the Legislature. Once the requirements are met, DHSMV notifies the committees of the House of Representatives and Senate with jurisdiction over the issue, and the organization is free to find sponsors and pursue Legislative action.

If a proposed specialty plate fails to be enacted by the Legislature, DHSMV returns the application fee and other required documents to the organization. If it passes and becomes law, DHSMV notifies the organization, modifies its computer programming to accommodate the new plate, and requests the laminate manufacturer, 3M Company, to produce a prototype roll-coat. PRIDE, the contracted manufacturer of license plates, embosses and roll-coats sample plates that must be submitted to FHP, the Governor, and the Cabinet for approval. Once approval is given, PRIDE begins full production of the plates and distributes them to the Tax Collectors' Offices for sale to the public.

Discontinuance of an approved specialty license plate occurs only when the number of valid registrations falls below 1,000 plates for at least 12 consecutive months. A warning letter is to be mailed to the sponsoring organization following the first month in which the total number of valid specialty plate registrations is below 1,000 plates. According to DHSMV there are currently twenty-two plates that are not meeting the minimum sales requirement and could be discontinued in 2006 if their sales do not increase. If none of these plates meet the minimum sales requirement by next summer, the number of plates offered for sale could be reduced to seventy-eight.

Funds derived from these annual use fees are distributed to an organization or organizations in support of a particular cause or charity signified on the plate's design and designated in s. 320.08058, F.S. This section also provides for the uses of funds derived for each plate from its annual use fee. There is wide variation on the uses of these fees regarding administrative costs and marketing or promotion expenses. For example, the "Support Soccer" license plate allows 25 percent of funds to be used for promotion and marketing and 5 percent to be used for administrative costs; while the "United We Stand" license plate requires that 100 percent of funds be used for airport security grants.

The Legislature has enacted 106 specialty license plates to date, though only 100 are currently available for purchase. Annual use fees for sales of specialty license plates for 2003-2004 totaled \$26,168,581 and for fiscal year 2004-2005 the total was \$29,049,472.90. Since the program's inception in 1986, the DHSMV has collected annual use fees totaling more than \$280 million.

Florida Memorial College License Plate

The Florida Memorial College license plate was created by the legislature in 1999. The license plate ranks 74th in popularity among license plates currently issued. The Florida Memorial College specialty license plate raised \$32,850 in calendar year 2004, with \$148,000 raised from 1999 to 2004. Florida Memorial College is a four-year, private, coed, liberal arts college affiliated with the Baptist Church. The school became a four-year college and awarded its first bachelor's degree in 1949. In 1950, this college was renamed Florida Normal and Industrial Memorial College. The present name, Florida Memorial College, was acquired in 1963. In 2005, Florida Memorial College reached University status by offering graduate level courses.

Keep Kids Drug-Free License Plate

The Keep Kids Drug-Free license plate was created by the legislature in 1988. This license plate ranks 36th in popularity among license plates currently issued. The Keep Kids Drug-Free license plate raised \$295,175 in calendar year 2004, with \$1.4 million raised from 1999 to 2004. Currently, the Keep Kids Drug-Free license plate is not authorized to use any portion of the license plate proceeds for administrative, marketing or promotional costs.

Sportsmen's National Land Trust License Plate

The Sportsmen's National Land Trust license plate was created by the legislature in 2004. The license plate ranks 63rd in popularity among license plates currently issued. The Sportsmen's National Land Trust specialty license plate raised \$62,800 in calendar year 2004. Currently the annual use fees for the Sportsmen's National Land Trust license plates are distributed to The Sportsmen's National Land Trust who retains 50 percent of the proceeds until 50 percent of all startup costs for developing and establishing the plate have been recovered.

Effect of Proposed Changes

HB 1589 w/CS creates the "Homeownership For All" specialty license plate, and establishes an annual use fee of \$25 to be paid by purchasers in addition to license taxes and fees. The annual use fee will be distributed to Homeownership For All, Inc., to promote and market the plate and to fund programs that provide, promote, or otherwise support affordable housing. Homeownership For All, Inc., the Florida non-profit corporation seeking authority for this plate, has submitted the information and application fee required by current law.

The bill also makes corrective and administrative changes to a number of existing specialty license plates:

- The bill changes the word "College" to "University" on the Florida Memorial College license plate;
- The bill provides for the allocation of 10 percent of the annual use fee from the Keep Kids Drug-Free license plates to be used for marketing and administrative costs directly related to the Keep Kids Drug-Free license plate; and

- The bill allows the Sportsmen's National Land Trust to retain 50 percent of the proceeds from the Florida Sportsmen's National Land Trust license plate until all of the startup costs for developing and establishing the plate have been recovered.

C. SECTION DIRECTORY:

Section 1. Amends s. 320.08056, F.S., changing the word "College" to "University" on the Florida Memorial College license plate, and providing for a \$25 annual use fee for the "Homeownership For All" license plate.

Section 2. Amends s. 320.08058, F.S., authorizing the use of 10 percent of the proceeds from the Keep Kids Drug-Free license plate annual use fee to be used for administrative and marketing costs of the plate; conforming provisions relating to the Florida Memorial University license plate; and revising the authorized uses of the Sportsmen's National Land Trust license plate proceeds; creating the "Homeownership For All" license plate; providing for plate design; and providing for distribution and uses of annual use fees;

Section 4. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See FISCAL COMMENTS section below.

2. Expenditures:

See FISCAL COMMENTS section below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Persons who elect to purchase the "Homeownership For All" specialty license plates, will be required to pay an annual use fee of \$25 in addition to applicable license taxes and administrative charges. The fee from the "Homeownership For All" license plate will be distributed to Homeownership For All, Inc., a Florida non-profit corporation. Up to 10 percent of the proceeds from the sale of this license plate will fund Homeownership For All, Inc. promotional and marketing costs of the plate and the remaining proceeds are to be used to fund programs that provide, promote, or otherwise support affordable housing in the state. Since it is impossible to determine how many persons will purchase the plates, it is impossible to determine the aggregate impact on the private sector.

The Keep Kids Drug-Free Foundation, Inc. will be allowed to use up to 10 percent of its specialty license plate's proceeds for marketing and administrative costs. Currently, all proceeds must be used to fund substance abuse prevention programs.

The Sportsmen's National Land Trust, Inc. will be authorized by the bill to recover all of its start-up costs for developing and establishing its plate. Current law allows the organization to recover 50 percent of its start-up costs.

D. FISCAL COMMENTS:

Implementation of HB 1589 w/CS will cost DHSMV approximately \$60,000 in contract programming, development labor, and product purchasing costs for creation of the "Homeownership For All" license plate. This impact is offset by the statutory application fee of \$60,000, which has been submitted to DHSMV by the organization seeking creation of the specialty license plate.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the bill does not appear to: require counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No additional rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On **March 28, 2006** the Transportation Committee adopted a strike-all amendment to HB 1589. The bill as originally filed created the "Homeownership For All" specialty license plate, but did not address any other license plates. The amendment provided the following changes:

- Creates the "Homeownership for All" specialty license plate, establishes an annual use fee of \$25 which will be distributed to Homeownership For All, Inc., to promote and market the plate and to fund programs that support affordable housing,
- Changes the word "College" to "University" on the Florida Memorial College license plate,
- Provides for the allocation of 10 percent of the annual use fee from the Keep Kids Drug-Free license plates, to be used for marketing and administrative costs directly related to the Keep Kids Drug-Free plate, and
- Authorizes the Sportsmen's National Land Trust to retain 50 percent of the proceeds from the Florida Sportsmen's National Land Trust license plate until all of the startup costs for developing and establishing the plate have been recovered.

The committee then voted 14-1 to report the bill favorably with committee substitute.

HB 1589

2006
CS

CHAMBER ACTION

1 The Transportation Committee recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to specialty license plates; amending s.
7 320.08056, F.S.; revising specialty license plate use fee
8 provisions to change a name; establishing an annual use
9 fee for the Homeownership for All license plate; amending
10 s. 320.08058, F.S.; revising authorized uses of the use
11 fees received from sales of the Keep Kids Drug-Free
12 license plate; changing the name of the Florida Memorial
13 College license plate to the Florida Memorial University
14 license plate; revising authorized uses of the use fees
15 received from sales of the Sportsmen's National Land Trust
16 license plate; creating the Homeownership for All license
17 plate and providing for distribution of the fees received
18 from sales of the plate; providing an effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

HB 1589

2006
CS

22 Section 1. Paragraph (z) of subsection (4) of section
23 320.08056, Florida Statutes, is amended, and paragraph (eee) is
24 added to that subsection, to read:

25 320.08056 Specialty license plates.--

26 (4) The following license plate annual use fees shall be
27 collected for the appropriate specialty license plates:

28 (z) Florida Memorial University College license plate,
29 \$25.

30 (eee) Homeownership for All license plate, \$25.

31 Section 2. Subsections (23), (26), and (48) of section
32 320.08058, Florida Statutes, are amended, and subsection (57) is
33 added to that section, to read:

34 320.08058 Specialty license plates.--

35 (23) KEEP KIDS DRUG-FREE LICENSE PLATES.--

36 (a) The department shall develop a Keep Kids Drug-Free
37 license plate as provided in this section. The word "Florida"
38 must appear at the top of the plate, and the words "Keep Kids
39 Drug-Free" must appear at the bottom of the plate.

40 (b) The annual use fees shall be distributed to the Keep
41 Kids Drug-Free Foundation, Inc., which shall use the fees to
42 fund activities to reduce substance abuse among residents of
43 this state. The foundation shall develop a plan to distribute
44 the funds for drug-abuse prevention programs.

45 (c) Notwithstanding s. 320.08062, up to 10 percent of the
46 proceeds from the annual use fee may be used for marketing the
47 Keep Kids Drug-Free license plate and for administrative costs
48 directly related to the management and distribution of the
49 proceeds.

HB 1589

2006
CS

(26) FLORIDA MEMORIAL UNIVERSITY COLLEGE LICENSE PLATES.--

(a) The department shall develop a Florida Memorial University College license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "Florida Memorial University College" must appear at the bottom of the plate.

(b) The annual use fees shall be distributed to Florida Memorial University College.

(48) SPORTSMEN'S NATIONAL LAND TRUST LICENSE PLATES.--

(a) The department shall develop a Sportsmen's National Land Trust license plate as provided in this section. The word "Florida" must appear at the top of the plate, and the words "Sportsmen's National Land Trust" must appear at the bottom of the plate.

(b) The annual revenues from the sales of the license plate shall be distributed to the Sportsmen's National Land Trust. Such annual revenues must be used by the trust in the following manner:

1. Fifty percent may be retained until ~~fifty percent of~~ all startup costs for developing and establishing the plate have been recovered.

2. Twenty-five percent must be used to fund programs and projects within the state that preserve open space and wildlife habitat, promote conservation, improve wildlife habitat, and establish open space for the perpetual use of the public.

3. Twenty-five percent may be used for promotion, marketing, and administrative costs directly associated with operation of the trust.

HB 1589

2006
CS

78 (c) When the provisions of subparagraph (b)1. are met,
79 those annual revenues shall be used for the purposes of
80 subparagraph (b)2.

81 (57) HOMEOWNERSHIP FOR ALL LICENSE PLATES.--

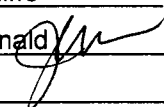
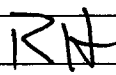
82 (a) The department shall develop a Homeownership for All
83 license plate as provided in this section. The word "Florida"
84 must appear at the top of the plate, and the words
85 "Homeownership for All" must appear at the bottom of the plate.

86 (b) The annual use fees shall be distributed to
87 Homeownership for All, Inc., which may use a maximum of 10
88 percent of the proceeds to promote and market the plate. The
89 remainder of the proceeds shall be used by Homeownership for
90 All, Inc., to fund programs that provide, promote, or otherwise
91 support affordable housing in this state.

92 Section 3. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7031 CS PCB TURS 06-01 Department of State
SPONSOR(S): Tourism Committee and Rep. Detert
TIED BILLS: **IDEN./SIM. BILLS:** SB 2384

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Tourism Committee	7 Y, 0 N	McDonald	McDonald
1) Transportation & Economic Development Appropriations Committee	18 Y, 0 N, w/CS	McAuliffe	Gordon
2) State Infrastructure Council		McDonald 	Havlicak 
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill establishes January 1 as the date when the terms begin for persons appointed to the Florida Arts Council. This will ensure that council members who review the cultural facilities grants and other grants through the statutorily required review process are the ones who make final recommendations on those grants.

The bill transfers to the Legislature the responsibilities of the Florida Historic Capitol that are currently under the Department of State. The bill ensures that the Florida Historic Capitol is maintained in accordance with good historic preservation practices that are specified in the National Park Service Preservation Briefs and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. The Department of Management Services will continue to be responsible for the preventive maintenance and the Florida Department of Law Enforcement, Capitol Police, will continue to be responsible for security of the Florida Historic Capitol. The bill also transfers the Florida Historic Capitol Curator responsibilities to the Legislature from the Department of State.

The bill amends provisions relating to cultural endowments to remove an audit requirement to conform to Single Audit Act requirements, to amend conditions for the return of the state portion of the endowment, and to use the returned funds to fund other cultural endowments in lieu of reverting to General Revenue.

Finally, the bill revises report and meeting dates for the Discovery of Florida Quincentennial Commemoration Commission.

The effective date of the bill is July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Arts Council

The Division of Cultural Affairs in the Department of State is responsible for managing Florida's cultural grant programs. The division is assisted in carrying out its duties by advisory groups. The Florida Arts Council, a 15-member advisory board appointed by the Governor, President of the Senate, and Speaker of the House of Representatives, advises the Secretary of State on the distribution of grant awards. Current law provides members appointed by the Governor serve four-year terms and members appointed by the Legislature serve two-year terms. However, current law does not specify the day or month of the year when appointed members are to begin their term.

Cultural Endowment Program

The cultural endowment grants are provided through the Cultural Endowment Program, under ss. 265.601-265.606, F.S., which provides a state match of \$240,000 to a qualifying organization that provides a match of \$360,000 for the establishment of an endowment, the interest from which is to be used for operation costs. Currently, 32 qualified organizations are on a waiting list for the Cultural Endowment Program.

The Cultural Endowment Program requires a qualifying organization to return the \$240,000 state match for the endowment if the organization ceases to exist, files for protection under federal bankruptcy, or willfully expends any portion of the endowment principal. Funds that are returned are required to revert to the General Revenue Fund. The Department of State has expressed concern that the criteria should be broadened to encompass other conditions under which the organization is no longer able to manage the endowment.

Section 265.606(4), F.S., requires the sponsoring organization to submit an annual audit explaining how endowment program funds were used and requires that the organization submit an annual postaudit of its financial accounts by an independent certified public accountant. The Department of State has expressed concern that the second audit requirement is in violation of the Florida Single Audit Act, s. 215.97, F.S., which requires a coordination of auditing efforts when entities are receiving funding from various state agencies. The law also refers to determinations for the primary agency of responsibility for audits. Determinations are based upon thresholds of funding.

Discovery of Florida Quincentennial Commemoration Commission:

In the 2004 Legislative Session, the Department of State and the Division of Historical Resources were given additional responsibilities through the creation of the Discovery of Florida Quincentennial Commemoration Commission which was placed within the department.¹ The purpose of the Commission is to plan and lead the commemoration of Juan Ponce de Leon's discovery of Florida. This is to be done through the development and implementation of a statewide master plan. The law provides for appointment of a Commission and authorizes specific powers and duties relative to the

¹ See Chapter 2004-91, L.O.F.
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development and implementation of the master plan. Special subcommittees are permitted and an advisory committee is required to assist the Commission in its responsibilities. The Commission must hold its initial meeting no later than January 2007 to organize and begin its work. By January 2008 an initial draft of the master plan must be submitted to the Governor, President of the Senate, and Speaker of the House of Representatives. The master plan must be completed by January 2009. Department and division responsibilities include, but are not limited to, establishment of a citizens support organization to assist in the development and implementation of the master plan and administrative support and consulting services. The responsibilities of the department were contingent upon appropriation. No funding was provided for responsibilities to organize the initial meeting of the Commission, to pay per diem and travel for members, nor to pay for any other administrative costs associated with the Commission.

Florida Historic Capitol and Curator

The Florida Historic Capitol has been at its present location since 1845 and was expanded several times. It retains the original floor plan in the center of the building. In 1978, the building was no longer used by state employees and it began its restoration to its 1902 appearance.

Chapter 81-332, Laws of Florida, provided that the President of the Senate and the Speaker of the House of Representatives have responsibility and authority for the allocation of all space in the restored capitol. The law also required that the rotunda, corridors, Senate chamber, House of Representative chamber, and Supreme Court chamber not be used as office space and that the Department of State be allocated space for program and administrative functions relating to the preservation, museum, and cultural programs of the department. The Department of State was required to restore all space in the Florida Historic Capitol in a manner consistent with the 1902 form and made available for allocation.

In 1982, the Florida Historic Capitol was restored and opened as a museum. The Florida Historic Capitol is on the National Registry of Historic Places and is an accredited museum. The accreditation as a museum is under the umbrella accreditation of the Museum of Florida History at the R.A. Gray Building. Artifacts and reproductions are displayed in the Governor's Suite and in the Senate, House, and Supreme Court chamber. Special exhibits interpret the state's political history, constitutions, and the history of the building.

The Capitol Curator, created within the Department of State, is responsible for the promotion and encouragement of knowledge and appreciation of the Florida Historic Capitol; the collection, research, exhibition, interpretation, preservation, and protection of the history, artifacts, objects, furnishings, and other materials related to the Florida Historic Capitol, and the development, direction, supervision, and maintenance of the interior design and furnishings of all spaces within the building consistent with the 1902 restoration.

Supplemental Corporate Filing Fees

In 2005, Chapter 620, relating to partnership laws, was amended by Chapter 2005-267, Laws of Florida. A section relating to reports required to be filed with the Department of State was changed to s. 620.1210, F.S., and the original section relating to such reports was repealed.

A cross reference in s. 607.193, F.S., relating to supplemental corporate fees, was not amended to cite the new section in Chapter 620, F.S. The language regarding existing late fees associated with a limited partnership or a foreign limited partnership filing is in need of clarification.

Effects of Proposed Changes:

Florida Arts Council

The bill establishes January 1 as the date when the terms begin for persons appointed to the Florida Arts Council. This will ensure that council members who review the cultural facilities grants and other grants through the statutorily required review process are the ones who make final recommendations on those grants.

Cultural Endowment Program

The bill removes the requirement for the submission to the Department of State of an annual postaudit by the local sponsoring organization. The deletion of this additional audit requirement removes potential costs that would be incurred by the department for the audit.

The bill broadens one of the criteria for reversion of the state funding portion of the endowment from ceasing operation to no longer being able to manage the endowment.

Additionally, the bill provides that if an organization receiving an endowment from the Cultural Endowment Program can no longer manage the endowment, the endowment funds would not revert to the General Revenue Fund, but to the Fine Arts Trust Fund. Those funds would then be used to fund the next organization on the Cultural Endowment Program priority list that has not previously received an endowment in the most current funding cycle.

Quincentennial Commemoration Commission

The bill changes the date for the first meeting of the Discovery of Florida Quincentennial Commemoration Commission from January 31, 2007 to July 31, 2008; changes the date for completion and submission of the initial draft of the master plan from January 2008 to May 2009; and, changes the date for completion and submission of the master plan to the Legislature from January 2009 to May 2010.

Florida Historic Capitol and Curator

The bill transfers to the Legislature the responsibilities of the Florida Historic Capitol that are currently under the Department of State. The bill ensures that the Florida Historic Capitol is maintained in accordance with good historic preservation practices that are specified in the National Park Service Preservation Briefs and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings. The Department of Management Services will continue to be responsible for the preventive maintenance and the Florida Department of Law Enforcement, Capitol Police, will continue to be responsible for security of the Florida Historic Capitol. The bill also transfers the Florida Historic Capitol Curator responsibilities to the Legislature from the Department of State.

Supplemental Corporate Fee

The bill corrects a cross reference in section 607.193, F.S., related to supplemental corporate fees.

C. SECTION DIRECTORY:

Section 1. Amends s. 265.285, F.S., relating to the Florida Arts Council; providing a start date for appointments to the Florida Arts Council.

Section 2. Amends s. 265.606, F.S., relating to the Cultural Endowment Program; deleting a requirement for a postaudit; revising reversion requirements for state funding portion of endowment.

Section 3. Amends s. 267.174, F.S., relating to the Discovery of Florida Quincentennial Commemoration Commission; revising dates.

Section 4. Amends s. 272.129, F.S., relating to the Florida Historic Capitol; transferring responsibilities; ensuring historic maintenance of the Florida Historic Capitol; correcting outdated language.

Section 5. Amends s. 272.135, F.S., relating to the Florida Historic Capitol Curator; transferring Curator to the Legislature.

Section 6. Amends s. 607.193, F.S., relating to supplemental corporate fees.

Section 7. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenue in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None specified.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On February 7, 2006, the Tourism Committee unanimously passed PCB TURS 05-01 as amended. The two technical amendments to the proposed committee bill were as follows:

- On line 53, the name of the trust fund was corrected to reflect the appropriate trust fund into which money is to be deposited.
- The numbering of sections was corrected.

At the April 11, 2006 meeting, the Transportation & Economic Development Appropriations Committee approved HB 7031 with a strike-all amendment. The amendment:

- Establishes January 1 as the date when the terms begin for persons appointed to the Florida Arts Council. This will ensure that council members who review the cultural facilities grants and other grants through the statutorily required review process are the ones who make final recommendations on those grants.
- Transfers to the Legislature the responsibilities of the Florida Historic Capitol that are currently under the Department of State.
- Ensures that the Florida Historic Capitol is maintained in accordance with good historic preservation practices that are specified in the National Park Service Preservation Briefs and the Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings.
- Corrects language relating to responsibilities of the Department of Management Services.
- Transfers the Florida Historic Capitol Curator and responsibilities to the Legislature from the Department of State.
- Amends provisions relating to cultural endowments by removing an audit requirement to conform to Single Audit Act, by broadening one of the provisions for reversion of the state portion of the endowment, and by providing for the return of the state portion of the endowment to fund other cultural endowments in lieu of reverting to the General Revenue Fund.
- Revises the dates for the first meeting of the Discovery of Florida Quincentennial Commemoration Commission, the initial draft of the master plan, and the submission of the master plan to the Legislature.

HB 7031

2006
CS

CHAMBER ACTION

The Transportation & Economic Development Appropriations
Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to the Department of State; amending s.
265.285, F.S.; clarifying terms of appointment to the
Florida Arts Council; removing obsolete language; amending
s. 265.606, F.S.; deleting a requirement for local
sponsoring organizations to submit an annual postaudit to
the Division of Cultural Affairs under certain
circumstances; providing for the reversion of the state's
matching share of cultural endowment to the Florida Fine
Arts Trust Fund rather than the General Revenue Fund under
certain circumstances; providing for distribution of
reverted funds; amending s. 267.174, F.S.; changing the
dates for the first meeting of the Discovery of Florida
Quincentennial Commemoration Commission, the completion of
the initial draft of a specified master plan, and the
submission of the completed master plan; amending s.
272.129, F.S.; transferring responsibility for the Florida
Historic Capitol from the Department of State to the
Legislature; providing for allocation of certain space for

Page 1 of 8

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb7031-01-c1

HB 7031

2006
CS

preservation, museum, and cultural programs of the
Legislature; requiring the maintenance of the Florida
Historic Capitol pursuant to certain historic preservation
standards and guidelines; removing responsibility of the
Department of Management Services for security of the
Historic Capitol and adjacent grounds; amending s.
272.135, F.S.; requiring the Capitol Curator to be
appointed by the President of the Senate and the Speaker
of the House of Representatives; deleting rulemaking
authority of the Department of State to conform; amending
s. 607.193, F.S.; correcting references to repealed
sections of Florida Statutes within provisions relating to
the annual supplemental corporate fee imposed on each
business entity authorized to transact business in this
state; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Paragraph (a) of subsection (1) of section
265.285, Florida Statutes, is amended to read:

265.285 Florida Arts Council; membership, duties.--

(1)(a) The Florida Arts Council is created in the
department as an advisory body, as defined in s. 20.03(7), to
consist of 15 members. Seven members shall be appointed by the
Governor, four members shall be appointed by the President of
the Senate, and four members shall be appointed by the Speaker
of the House of Representatives. The appointments, to be made in
consultation with the Secretary of State, shall recognize the

HB 7031

2006
CS

52 need for geographical representation. Council members appointed
53 by the Governor shall be appointed for 4-year terms beginning on
54 January 1 of the year of appointment. Council members appointed
55 by the President of the Senate and the Speaker of the House of
56 Representatives shall be appointed for 2-year terms beginning on
57 January 1 of the year of appointment. ~~Council members serving on~~
58 ~~July 1, 2002, may serve the remainder of their respective terms.~~
59 ~~New appointments to the council shall not be made until the~~
60 ~~retirement, resignation, removal, or expiration of the terms of~~
61 ~~the initial members results in fewer than 15 members remaining.~~
62 ~~As vacancies occur, the first appointment to the council shall~~
63 ~~be made by the Governor. The President of the Senate, the~~
64 ~~Speaker of the House of Representatives, and the Governor,~~
65 ~~respectively, shall then alternate appointments until the~~
66 ~~council is composed as required herein.~~ A No member of the
67 council who serves two 4-year terms or two 2-year terms is not
68 will be eligible for reappointment for 1 year ~~during a 1-year~~
69 ~~period~~ following the expiration of the member's second term. A
70 member whose term has expired shall continue to serve on the
71 council until such time as a replacement is appointed. Any
72 vacancy on the council shall be filled for the remainder of the
73 unexpired term in the same manner as for the original
74 appointment. Members should have a substantial history of
75 community service in the performing or visual arts, which
76 includes, but is not limited to, theatre, dance, folk arts,
77 music, architecture, photography, and literature. In addition,
78 it is desirable that members have successfully served on boards

HB 7031

2006
CS

of cultural institutions such as museums and performing arts centers or are recognized as patrons of the arts.

Section 2. Subsections (4) and (5) of section 265.606, Florida Statutes, are amended to read:

265.606 Cultural Endowment Program; administration; qualifying criteria; matching fund program levels; distribution.--

(4) Once the secretary has determined that the sponsoring organization has complied with the criteria imposed by this section, he or she may authorize the transfer of the appropriate state matching funds to the organization. However, the secretary shall ensure that the local group has made prudent arrangements for the trusteeship of the entire endowment, and such trusteeship is hereby created. The sponsoring organization may then expend moneys in the endowment program fund, subject to the following requirements:

(a) The organization may expend funds only for operating costs incurred while engaged in programs directly related to cultural activities.

(b) The organization shall annually submit a report to the division, in such form as the division specifies, explaining how endowment program funds were utilized.

~~(c) Any contract administered under this section shall require the local sponsoring organization to submit to the division an annual postaudit of its financial accounts conducted by an independent certified public accountant.~~

(5) The \$240,000 state matching fund endowment for each individual endowment shall revert to the Florida Fine Arts Trust

HB 7031

2006
CS

Fund and shall be awarded to the first organization on the
Cultural Endowment Program priority list pursuant to subsection
(7) that has not previously received a cultural endowment in the
most current fiscal year funding cycle ~~General Revenue Fund~~ if
any of the following events occurs:

(a) The recipient sponsoring organization is no longer
able to manage an endowment ~~ceases operations~~.

(b) The recipient sponsoring organization files for
protection under federal bankruptcy provisions.

(c) The recipient sponsoring organization willfully
expends a portion of the endowment principal of any individual
endowment.

Section 3. Paragraph (d) of subsection (5) and paragraph
(c) of subsection (7) of section 267.174, Florida Statutes, are
amended to read:

267.174 Discovery of Florida Quincentennial Commemoration
Commission.--

(5) OFFICERS; BYLAWS; MEETINGS.--

(d) The initial meeting of the commission shall be held no
later than July 31, 2008 ~~January 31, 2007~~. Subsequent meetings
shall be held upon the call of the chair or vice chair acting in
the absence of the chair, and in accordance with the
commission's bylaws.

(7) DUTIES; MASTER PLAN.--

(c) The commission shall establish a timetable and budget
for completion for all parts of the master plan which shall be
made a part of the plan. An initial draft of the plan shall be
completed and submitted to the Governor, the President of the

HB 7031

2006
CS

Senate, the Speaker of the House of Representatives, and the Secretary of State by May 2009 ~~January 2008~~ with the completed master plan submitted to such officials by May 2010 ~~January 2009~~.

Section 4. Section 272.129, Florida Statutes, is amended to read:

272.129 Florida Historic Capitol; space allocation; maintenance, repair, and security.--

(1) The Legislature ~~Department of State~~ shall ensure ~~assure~~ that all space in the Florida Historic Capitol is restored in a manner consistent with the 1902 form and made available for allocation. Notwithstanding the provisions of ss. 255.249 and 272.04 that relate to space allocation in state-owned buildings, the President of the Senate and the Speaker of the House of Representatives shall have responsibility and authority for the allocation of all space in the restored Florida Historic Capitol, provided:

(a) The rotunda, corridors, Senate chamber, House of Representatives chamber, and Supreme Court chamber shall not be used as office space.

(b) The Legislature ~~Department of State~~ shall be allocated sufficient space for program and administrative functions relating to the preservation, museum, and cultural programs of the Legislature ~~department~~.

(2) The Florida Historic Capitol shall be maintained in accordance with good historic preservation practices as specified in the National Park Service Preservation Briefs and

HB 7031

2006
CS

the Secretary of the Interior's Standards for Rehabilitation and
Guidelines for Rehabilitating Historic Buildings.

~~(3)(2)~~ Custodial and preventive maintenance ~~and~~ repair
~~and security~~ of the entire Historic Capitol and the grounds
located adjacent thereto shall be the responsibility of the
Department of Management Services, subject to the special
requirements of the building as determined by the Capitol
Curator.

Section 5. Section 272.135, Florida Statutes, is amended
to read:

272.135 Florida Historic Capitol Curator.--

(1) The position of Capitol Curator is created within the
Legislature ~~Department of State~~, which shall establish the
qualifications for the position. The curator shall be appointed
by and serve at the pleasure of the President of the Senate and
the Speaker of the House of Representatives ~~Secretary of State~~.

(2) The Capitol Curator shall:

(a) Promote and encourage throughout the state knowledge
and appreciation of the Florida Historic Capitol.

(b) Collect, research, exhibit, interpret, preserve, and
protect the history, artifacts, objects, furnishings, and other
materials related to the Florida Historic Capitol, except for
archaeological research and resources.

(c) Develop, direct, supervise, and maintain the interior
design and furnishings of all space within the Florida Historic
Capitol in a manner consistent with the restoration of the
Florida Historic Capitol in its 1902 form.

HB 7031

2006
CS

189 ~~(3) The Department of State shall promulgate rules to~~
190 ~~implement this section.~~

191 Section 6. Subsections (1) and (2) of section 607.193,
192 Florida Statutes, are amended to read:

193 607.193 Supplemental corporate fee.--

194 (1) In addition to any other taxes imposed by law, an
195 annual supplemental corporate fee of \$88.75 is imposed on each
196 business entity that is authorized to transact business in this
197 state and is required to file an annual report with the
198 Department of State under s. 607.1622, s. 608.452, or s.
199 620.1210 ~~620.177~~.

200 (2)(a) The business entity shall remit the supplemental
201 corporate fee to the Department of State at the time it files
202 the annual report required by s. 607.1622, s. 608.452, or s.
203 620.1210 ~~620.177~~.

204 (b) In addition to the fees levied under ss. 607.0122,
205 608.452, and 620.1109 ~~620.182~~ and the supplemental corporate
206 fee, a late charge of \$400 shall be imposed if the supplemental
207 corporate fee is remitted after May 1 except in circumstances in
208 which a business entity did not receive the uniform business
209 report prescribed by the department.

210 Section 7. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7253 PCB GM 06-02 Growth Management
SPONSOR(S): Growth Management Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Growth Management Committee	8 Y, 1 N	Strickland	Grayson
1) Transportation & Economic Development Appropriations Committee	14 Y, 0 N	McAuliffe	Gordon
2) State Infrastructure Council		Strickland BS	Havlicak RH
3)			
4)			
5)			

SUMMARY ANALYSIS

House Bill 7253 revises current law related to growth management. The bill:

- Removes the requirement that the entire local comprehensive plan be financially feasible.
- Provides that a third party challenge, or the outcome of such challenge, to the 5-year schedule of capital improvements does not affect adoption of further plan amendments to the future land use map.
- Provides that challenge to the addition, elimination, deferral or delay of a facility to the 5-year schedule of capital improvements may only occur when the project is first proposed for such addition, elimination, deferral or delay.
- Provides for certain exemptions from transportation concurrency.
- Provides for a waiver of the transportation facilities concurrency requirements for certain urban infill, redevelopment, and downtown revitalization areas.
- Deletes record keeping and reporting requirements related to transportation de minimis impacts.
- Provides that a “not-in-compliance” determination for an amendment to a local government comprehensive plan by the Department of Community Affairs may not be based on school capacity under certain conditions.
- Removes the requirement to incorporate the school concurrency service areas and establishing criteria and standards into the comprehensive plan, when school concurrency is applied on a less than district-wide basis.
- Revises the organization reporting structure for the Century Commission for a Sustainable Florida and provides guidance for the development of its annual budget.
- Provides that federal urban attributable funds are eligible as a local match for transit projects under the Transportation Regional Incentive Program by removing the requirement that the match be a nonfederal share of the project cost for a public transportation facility project.
- Provides for a partial exemption from development of regional impact review for urban service boundaries, infill and redevelopment areas, and rural land stewardship areas if the required binding agreement for the full exemption is not attained.
- Provides for small scale amendments for certain built-out municipalities.

The bill does not appear to have a fiscal impact on state or local governments.

The bill provides an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government – The bill may reduce government responsibility when development meets criteria for full or partial exemptions, waivers and small scale amendments.

Ensure lower taxes – The bill may reduce some fees related to development of regional impact or comprehensive plan amendment review when development meets criteria for full or partial exemptions, waivers and small scale amendments.

Safeguard individual liberty – The bill may increase the options of an individual or a private organization regarding the conduct of their own affairs when development meets criteria for full or partial exemptions, waivers and small scale amendments.

B. EFFECT OF PROPOSED CHANGES:

Background:

Ch. 2005-290, L.O.F.

The 2005 Legislature enacted ch. 2005-290, L.O.F. (the Act) relating to infrastructure planning and funding. The Act was the subject of a conference committee during the last two days of the 2005 Session. This bill addresses policy refinements related to the substance of the Act.

Comprehensive Plans & Adoption of Amendments

All of Florida's counties and municipalities are required to adopt local government comprehensive plans that guide future growth and development. Each comprehensive plan contains elements that address future land use, housing, transportation infrastructure, coastal management, conservation, recreation and open space, intergovernmental coordination, and capital improvements. Local governments may amend their comprehensive plans twice a year. Exemptions from the frequency of comprehensive plan amendments are provided for various circumstances. Citizens are afforded several opportunities to challenge decisions that may be inconsistent with the Local Government Comprehensive Planning and Land Development Regulation Act., ss. 163.3161-163.3246, F.S.

Concurrency

Concurrency is the concept that the infrastructure necessary to support new development or redevelopment be in place concurrent with that development. The Act established stricter concurrency related to transportation, schools, and water infrastructure. Specifically, the Act provided that:

- Transportation facilities must be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval.
- Adequate school facilities must be in place or under actual construction within 3 years after the issuance of final subdivision or site plan approval.
- Prior to the approval of a building permit or its functional equivalent, a local government is required to consult with the applicable water supplier to determine whether adequate water supplies will be available to serve the new development at the certificate of occupancy.

Century Commission for a Sustainable Florida

Formed by the Florida Legislature in 2005, the Century Commission for a Sustainable Florida (Commission) is comprised of 15 volunteer members, appointed by the Governor, President of the Senate, and the Speaker of the House of Representatives. The Commission is responsible for exploring the impact of estimated population increases and other emerging trends and issues, creating

a vision for the future, and developing a strategic action plan to achieve that vision using 15 and 50 year planning time horizons. Each year the Commission is to provide a written report containing specific recommendations for addressing growth management issues.

Transportation Regional Incentive Program (TRIP)

Formed by the Florida Legislature in 2005, TRIP was created to assist in the improvement of regionally significant transportation facilities. State funds are available throughout Florida to provide incentives for local governments and the private sector to help pay for projects that benefit regional travel and commerce. Under current law, the Department of Transportation will match 50 percent of project costs, or up to 50 percent of the nonfederal share of project costs for public transportation facility projects.

Developments of Regional Impact (DRI)

The DRI program is a vehicle that provides state and regional review of local land use decisions regarding large developments that, because of their character, magnitude, or location, would have a substantial effect on the health, safety, or welfare of the citizens of more than one county. Under existing law, urban service boundaries, infill and redevelopment areas, and rural land stewardship areas are exempt from DRI review provided that a binding agreement is reached between the local government, adjacent jurisdictions, and the Department of Transportation.

Effect of Proposed Changes

Comprehensive Plan

The bill removes the requirement that the entire comprehensive plan adopted by a local government be financially feasible.

The bill provides that the challenge to the addition of a facility, or the elimination, deferral or delay of a project may only occur when the facility is first added to the 5-year schedule of capital improvements or when the project is proposed to be eliminated, deferred or delayed.

The bill provides that a third party challenge, or the outcome of such challenge, to the five-year schedule of capital improvements does not affect adoption of further plan amendments to the future land use map.

Concurrency

Transportation Concurrency

The bill provides that when a local government, in cooperation with the Department of Transportation (DOT), adopts a five-year or longer term transportation improvement plan and makes financial commitments to fund the plan, the local government is deemed to meet transportation concurrency even if in any particular year the improvements are not concurrent.

The bill provides for an exemption from the transportation concurrency requirements if a municipality has either an area-wide DRI or a downtown development authority, which DRI boundaries have not increased after July 1, 2005, and which has adopted a plan to address transportation mitigation, including identified funding to address transportation deficiencies if one has not been adopted as part of the creation of such an area-wide DRI.

The bill provides legislative findings that urban infill and redevelopment is a high state priority in Florida and should be promoted with incentives.

The bill provides for a waiver of transportation concurrency requirements for two types of development activities: 1) certain urban infill and redevelopment that are designated in the comprehensive plan, pursuant to s. 163.2517, F.S.; or 2) for areas designated in the comprehensive plan prior to January 1, 2006, as urban infill development, urban redevelopment, or downtown revitalization. To qualify, the local government must have created a long-term vision that includes adequate funding, services, and multimodal transportation options.

The bill provides for a waiver of transportation concurrency requirements for municipalities that are at least 90percent built-out. The bill defines "built-out" related to this exemption as "90 percent of the property within the municipality's boundaries, excluding lands that are designated as conservation, preservation, recreation, or public facilities categories, have been developed, or are the subject of an approved development order that has received a building permit and the municipality has an average density of five units per acre for residential developments." The bill further requires the following in order to receive the waiver from transportation concurrency:

- The local government and the DOT shall cooperatively establish a plan for maintaining the adopted level-of-service standards established by the DOT for Strategic Intermodal System facilities.
- The municipality must have adopted an ordinance that provides the methodology for determining its built-out percentage, declares that transportation concurrency requirements are waived within its municipal boundary or within a designated area of the municipality, and addresses multimodal options and strategies.
- Prior to the adoption of the ordinance, the DOT shall be consulted by the local government to assess the impact that the waiver of the transportation concurrency requirements is expected to have on the adopted level-of-service standards.
- If a municipality annexes any property, the municipality must recalculate its built-out percentage pursuant to the methodology set forth in its ordinance to verify whether the annexed property may be included within this exemption.
- If the municipality receives this exemption, the municipality must adopt a comprehensive plan amendment which updates its transportation element to reflect the transportation concurrency requirements waiver and must submit a copy of its ordinance to the Department of Community Affairs (DCA).

The bill removes record keeping and reporting requirements related to transportation de minimis impacts.

School concurrency

The bill provides that a "not-in-compliance" determination by DCA for an amendment to a local government comprehensive plan shall not be based upon school capacity until December 1, 2008, provided that data and analysis is submitted to DCA demonstrating coordination between the school board and the local government to plan to address capacity issues.

The bill removes the requirement that the school interlocal agreement establish a process and schedule for the mandatory incorporation of the school concurrency service areas and the criteria and standards for establishment of the service areas into the local comprehensive plan.

Comprehensive Plan Amendments

Frequency of Amendments

The bill provides that municipalities that are 90% built-out, are exempt from the statutory limits on the frequency of consideration of amendments to the local comprehensive plan provided that the amendment involves a use of 100 acres or fewer and:

- The municipality has adopted a comprehensive plan amendment which updates its transportation element to reflect the transportation concurrency requirements waiver and must submit a copy of its ordinance to the DCA.
- The cumulative annual effect of the acreage for all amendments adopted does not exceed 500 acres.
- The proposed amendment does not involve the same property that has been granted a change within the prior 12 months.

- The proposed amendment does not involve the same owner's property within 200 feet of property granted a change within the prior 12 months.
- The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan but only proposes a land use change to the future land use map for a site-specific small scale development activity.
- The property that is the subject of the proposed amendment is not located within an area of critical state concern.

Definition of "built-out"

- The bill defines the term "built-out" as "90 percent of the property within the municipality's boundaries, excluding lands that are designated as conservation, preservation, recreation, or public facilities categories, have been developed or are the subject of an approved development order that has received a building permit and the municipality has an average density of five units per acre for residential development."

Notice Requirements

- The bill provides that a local government is not required to comply with notice requirements so long as they comply with the provisions of s. 166.041(3)(c), F.S. however, the bill expressly requires public notice of comprehensive plan amendments initiated by someone other than the local government.
- The local government shall send copies of the notice and amendment to the state land planning agency, the regional planning council, and any other person or entity requesting a copy, along with a statement identifying any property subject to the amendment that is located within a coastal high hazard area as identified in the local comprehensive plan.

Public Hearing

- The bill provides that amendments adopted pursuant to the provisions of this bill will require only one public hearing before the governing board, which shall be an adoption hearing, and are not subject to the requirements of s.163.3184 (3) – (6), F.S., unless the local government elects to have them subjected to those requirements.

Annexation

- The bill provides that a municipality may not have the benefit of this exemption if it annexes unincorporated property that decreases the percentage of build-out to an amount below 90%.

Notice of buildout

- The bill provides that the local government must notify DCA in writing of its built-out percentage prior to the submission of any local comprehensive plan amendments under this bill.

Century Commission for a Sustainable Florida

The bill provides that the Commission shall function independently of the control and direction of DCA, except for administrative and fiscal assistance. Further, the bill provides that the Commission shall develop and submit a budget, that is not subject to change by DCA, to the Governor along with DCA's budget.

Transportation Regional Incentive Program

The bill provides that federal urban attributable funds are eligible as a local match for transit projects under the TRIP by removing the requirement that the local match be nonfederal share of the project cost for a public transportation facility project.

Developments of Regional Impact

The bill provides that the transportation agreement required by the current law for an exemption from DRI review for urban service boundaries, infill and redevelopment areas, and rural land stewardship

areas will be limited to transportation absent such an agreement. Further, the local government must notify DCA if they do not reach such an agreement.

C. SECTION DIRECTORY:

Section 1: Amends s. 163.3177, F.S., relating to required and optional elements of comprehensive plan.

Section 2: Amends s. 163.3180, F.S., relating to concurrency.

Section 3: Amends s. 163.3187, F.S., relating to amendments of adopted comprehensive plans.

Section 4: Amends s. 163.3247, F.S., relating to powers and duties of the Century Commission for a Sustainable Florida.

Section 5: Amends s. 339.2819, F.S., relating to the Transportation Regional Incentive Program.

Section 6: Amends s. 380.06, F.S., relating to Developments of Regional Impact.

Section 7: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may result in increased state expenditures when development meets criteria for full or partial exemptions, waivers and small scale amendments by virtue of infrastructure facility needs that result from the development but are not addressed concurrent with that development.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may result in increased local government expenditures when development meets criteria for full or partial exemptions, waivers and small scale amendments by virtue of infrastructure facility needs that result from the development but are not addressed concurrent with that development.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may result in decreased costs associated with some development when that development meets criteria for full or partial exemptions, waivers and small scale amendments.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Not Applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

The Growth Management Committee adopted amendments to the PCB on March 28, 2006. The amendments made the following changes:

- Provides that a third party challenge, or the outcome of such challenge, to the 5-year schedule of capital improvements does not affect adoption of further plan amendments to the future land use map.
- Provides that challenge to the addition, elimination, deferral or delay of a facility to the 5-year schedule of capital improvements may only occur when the project is first proposed for such addition, elimination, deferral or delay.
- Provides that when a local government, in cooperation with the DOT adopts a 5-year or longer term transportation improvement plan and makes financial commitments to fund the plan, is deemed to meet transportation concurrency even if in any particular year the improvements are not concurrent.
- Provides an exemption from transportation concurrency for municipalities that have an area-wide development of regional impact or downtown development authority, which boundaries has not changed since 2005, and which has adopted a plan to address transportation deficiencies.
- Provides for a transportation concurrency exemption for municipalities 90% built-out and provides criteria to be eligible for such an exemption.
- Prevents a "not – in – compliance" determination based upon school capacity until December 1, 2008, provided that data and analysis is submitted to DCA demonstrating coordination between the school board and the local government to plan to address capacity issues.
- Removes the requirement to incorporate the school concurrency service areas and establish criteria and standards into the comprehensive plan, when school concurrency is applied on a less than district-wide basis.
- Clarifies the organization reporting structure for the Century Commission for a Sustainable Florida and provides guidance for the development of its annual budget.
- Provides that federal urban attributable funds are eligible as a local match for transit projects under TRIP by removing the provision that the matching funds may be up to 50 percent of the nonfederal share of the eligible project cost for a public transportation facility project.
- Creates a partial development of regional impact exemption for urban service boundaries, infill and redevelopment areas, and rural land stewardship areas if the required binding agreement between the local government, impacted jurisdictions, and DOT required for the full exemption is not attained.

1 A bill to be entitled
2 An act relating to growth management; amending s.
3 163.3177, F.S.; deleting a requirement that the entire
4 comprehensive plan be financially feasible; specifying
5 limitations on challenges to certain changes in a 5-year
6 schedule of capital improvements; authorizing local
7 governments to continue adopting land use plan amendments
8 during challenges to the plan; amending s. 163.3180, F.S.;
9 providing that certain local governments are concurrent
10 with an adopted transportation improvements plan
11 notwithstanding certain improvements not being concurrent;
12 providing for a waiver of transportation facilities
13 concurrency requirements for certain urban infill,
14 redevelopment, and downtown revitalization areas and
15 certain built-out municipalities; requiring local
16 governments and the Department of Transportation to
17 establish a plan for maintaining certain level-of-service
18 standards; providing requirements for the waiver for such
19 built-out municipalities; exempting certain municipalities
20 from certain transportation concurrency requirements;
21 deleting record-keeping and reporting requirements related
22 to transportation de minimis impacts; providing that
23 school capacity is not a basis for finding a comprehensive
24 plan amendment not in compliance; deleting a requirement
25 to incorporate the school concurrency service areas and
26 criteria and standards for establishment of the service
27 areas into the local government comprehensive plan;
28 amending s. 163.3187, F.S.; authorizing approval of

29 certain small scale amendments to a comprehensive plan for
30 certain built-out municipalities; providing criteria,
31 requirements, and procedures; providing for nonapplication
32 under certain circumstances; amending s. 163.3247, F.S.;
33 assigning the Century Commission for a Sustainable Florida
34 to the Department of Community Affairs for administrative
35 and fiscal accountability purposes; requiring the
36 commission to develop a budget; providing budget
37 requirements; amending s. 339.2819, F.S.; revising
38 criteria for matching funds for the Transportation
39 Regional Incentive Program; amending s. 380.06, F.S.;
40 revising an exemption from development of regional impact
41 review for certain developments within an urban service
42 boundary; limiting development-of-regional-impact review
43 of certain urban service boundaries, urban infill and
44 redevelopment areas, and rural land stewardship areas to
45 transportation impacts only under certain circumstances;
46 providing an effective date.

47
48 Be It Enacted by the Legislature of the State of Florida:

49
50 Section 1. Subsection (2) and paragraph (b) of subsection
51 (3) of section 163.3177, Florida Statutes, are amended to read:
52 163.3177 Required and optional elements of comprehensive
53 plan; studies and surveys.--

54 (2) Coordination of the several elements of the local
55 comprehensive plan shall be a major objective of the planning
56 process. The several elements of the comprehensive plan shall be

HB 7253

2006

57 consistent, and the comprehensive plan shall be financially
58 feasible. ~~Financial~~ Feasibility shall be determined using
59 professionally accepted methodologies.

60 (3)

61 (b)1. The capital improvements element shall be reviewed
62 on an annual basis and modified as necessary in accordance with
63 s. 163.3187 or s. 163.3189 in order to maintain a financially
64 feasible 5-year schedule of capital improvements. Corrections
65 and modifications concerning costs; revenue sources; or
66 acceptance of facilities pursuant to dedications which are
67 consistent with the plan may be accomplished by ordinance and
68 shall not be deemed to be amendments to the local comprehensive
69 plan. A copy of the ordinance shall be transmitted to the state
70 land planning agency. An amendment to the comprehensive plan is
71 required to update the schedule on an annual basis or to
72 eliminate, defer, or delay the construction for any facility
73 listed in the 5-year schedule. An affected person may challenge
74 the addition of a facility, or the elimination, deferral, or
75 delay of a project, only when the facility is first added to the
76 5-year schedule of capital improvements or when the project is
77 proposed to be eliminated, deferred, or delayed. All public
78 facilities shall be consistent with the capital improvements
79 element. Amendments to implement this section must be adopted
80 and transmitted no later than December 1, 2007. Thereafter, a
81 local government may not amend its future land use map, except
82 for plan amendments to meet new requirements under this part and
83 emergency amendments pursuant to s. 163.3187(1)(a), after
84 December 1, 2007, and every year thereafter, unless and until

Page 3 of 17

CODING: Words stricken are deletions; words underlined are additions.

hb7253-00

HB 7253

2006

the local government has adopted the annual update and it has been transmitted to the state land planning agency. If an affected party challenges the 5-year schedule of capital improvements, a local government may continue to adopt plan amendments to the future land use map during the pendency of the challenge and any related litigation. The outcome of a third-party challenge to the 5-year schedule of capital improvements shall not affect any amendments adopted during the pendency of such challenge and any related litigation.

2. Capital improvements element amendments adopted after the effective date of this act shall require only a single public hearing before the governing board which shall be an adoption hearing as described in s. 163.3184(7). Such amendments are not subject to the requirements of s. 163.3184(3)-(6).

Section 2. Paragraph (c) of subsection (2), subsection (6), and paragraphs (d) and (g) of subsection (13) of section 163.3180, Florida Statutes, are amended, and paragraphs (h) and (i) are added to subsection (5) of that section, to read:

163.3180 Concurrency.--

(2)

(c) Consistent with the public welfare, and except as otherwise provided in this section, transportation facilities needed to serve new development shall be in place or under actual construction within 3 years after the local government approves a building permit or its functional equivalent that results in traffic generation. However, local governments that adopt, in cooperation with the Department of Transportation, a 5-year or longer transportation improvements plan for future

HB 7253

2006

development and make the financial commitments to fund such plan
shall be deemed concurrent throughout the duration of the plan
even if, in any particular year, such transportation
improvements are not concurrent.

(5)

(h) It is a high state priority that urban infill and
redevelopment be promoted and provided incentives. By promoting
the revitalization of existing communities of this state, a more
efficient maximization of space and facilities may be achieved
and urban sprawl discouraged. If a local government creates a
long-term vision for its community that includes adequate
funding, services, and multimodal transportation options, the
transportation facilities concurrency requirements of paragraph
(2)(c) are waived:

1.a. For urban infill and redevelopment areas designated
in the comprehensive plan under s. 163.2517; or

b. For areas designated in the comprehensive plan prior to
January 1, 2006, as urban infill development, urban
redevelopment, or downtown revitalization.

The local government and the Department of Transportation shall
cooperatively establish a plan for maintaining the adopted
level-of-service standards established by the Department of
Transportation for Strategic Intermodal System facilities, as
defined in s. 339.64.

2. For municipalities that are at least 90 percent built-
out. For purposes of this exemption:

a. The term "built-out" means that 90 percent of the

141 property within the municipality's boundaries, excluding lands
142 that are designated as conservation, preservation, recreation,
143 or public facilities categories, have been developed or are the
144 subject of an approved development order that has received a
145 building permit and the municipality has an average density of
146 five units per acre for residential developments.

147 b. The municipality must have adopted an ordinance that
148 provides the methodology for determining its built-out
149 percentage, declares that transportation concurrency
150 requirements are waived within its municipal boundary or within
151 a designated area of the municipality, and addresses multimodal
152 options and strategies, including alternative modes of
153 transportation within the municipality. Prior to the adoption of
154 the ordinance, the local government shall consult with the
155 Department of Transportation to assess the impact that the
156 waiver of the transportation concurrency requirements is
157 expected to have on the adopted level-of-service standards
158 established for Strategic Intermodal System facilities, as
159 defined in s. 339.64. Further, the local government shall
160 cooperatively establish a plan for maintaining the adopted
161 level-of-service standards established by the department for
162 Strategic Intermodal System facilities, as described in s.
163 339.64.

164 c. If a municipality annexes any property, the
165 municipality must recalculate its built-out percentage pursuant
166 to the methodology set forth in its ordinance to verify whether
167 the annexed property may be included within the exemption.

168 d. If transportation concurrency requirements are waived

HB 7253

2006

169 under this subparagraph, the municipality must adopt a
170 comprehensive plan amendment pursuant to s. 163.3187(1)(c),
171 which updates its transportation element to reflect the
172 transportation concurrency requirements waiver, and must submit
173 a copy of its ordinance, adopted in sub-subparagraph b., to the
174 state land planning agency.

175 (i) A municipality that has an areawide development of
176 regional impact created under s. 380.06(25) or a downtown
177 development authority created under 380.06(22) is exempt from
178 the requirements of transportation concurrency within the
179 designated area if the municipality has not increased the
180 boundaries of the development of regional impact after July 1,
181 2005, and adopts a mitigation plan, with funding identified, to
182 address transportation deficiencies if one has not been adopted
183 as part of the creation of the areawide development of regional
184 impact.

185 (6) The Legislature finds that a de minimis impact is
186 consistent with this part. A de minimis impact is an impact that
187 would not affect more than 1 percent of the maximum volume at
188 the adopted level of service of the affected transportation
189 facility as determined by the local government. No impact will
190 be de minimis if the sum of existing roadway volumes and the
191 projected volumes from approved projects on a transportation
192 facility would exceed 110 percent of the maximum volume at the
193 adopted level of service of the affected transportation
194 facility; provided however, that an impact of a single family
195 home on an existing lot will constitute a de minimis impact on
196 all roadways regardless of the level of the deficiency of the

HB 7253

2006

197 roadway. Further, no impact will be de minimis if it would
198 exceed the adopted level-of-service standard of any affected
199 designated hurricane evacuation routes. ~~Each local government~~
200 ~~shall maintain sufficient records to ensure that the 110 percent~~
201 ~~criterion is not exceeded. Each local government shall submit~~
202 ~~annually, with its updated capital improvements element, a~~
203 ~~summary of the de minimis records. If the state land planning~~
204 ~~agency determines that the 110 percent criterion has been~~
205 ~~exceeded, the state land planning agency shall notify the local~~
206 ~~government of the exceedance and that no further de minimis~~
207 ~~exceptions for the applicable roadway may be granted until such~~
208 ~~time as the volume is reduced below the 110 percent. The local~~
209 ~~government shall provide proof of this reduction to the state~~
210 ~~land planning agency before issuing further de minimis~~
211 ~~exceptions.~~

212 (13) School concurrency shall be established on a
213 districtwide basis and shall include all public schools in the
214 district and all portions of the district, whether located in a
215 municipality or an unincorporated area unless exempt from the
216 public school facilities element pursuant to s. 163.3177(12).
217 The application of school concurrency to development shall be
218 based upon the adopted comprehensive plan, as amended. All local
219 governments within a county, except as provided in paragraph
220 (f), shall adopt and transmit to the state land planning agency
221 the necessary plan amendments, along with the interlocal
222 agreement, for a compliance review pursuant to s. 163.3184(7)
223 and (8). The minimum requirements for school concurrency are the
224 following:

HB 7253

2006

225 (d) Financial feasibility.--The Legislature recognizes
226 that financial feasibility is an important issue because the
227 premise of concurrency is that the public facilities will be
228 provided in order to achieve and maintain the adopted level-of-
229 service standard. This part and chapter 9J-5, Florida
230 Administrative Code, contain specific standards to determine the
231 financial feasibility of capital programs. These standards were
232 adopted to make concurrency more predictable and local
233 governments more accountable.

234 1. A comprehensive plan amendment seeking to impose school
235 concurrency shall contain appropriate amendments to the capital
236 improvements element of the comprehensive plan, consistent with
237 the requirements of s. 163.3177(3) and rule 9J-5.016, Florida
238 Administrative Code. The capital improvements element shall set
239 forth a financially feasible public school capital facilities
240 program, established in conjunction with the school board, that
241 demonstrates that the adopted level-of-service standards will be
242 achieved and maintained.

243 2. Such amendments shall demonstrate that the public
244 school capital facilities program meets all of the financial
245 feasibility standards of this part and chapter 9J-5, Florida
246 Administrative Code, that apply to capital programs which
247 provide the basis for mandatory concurrency on other public
248 facilities and services.

249 3. When the financial feasibility of a public school
250 capital facilities program is evaluated by the state land
251 planning agency for purposes of a compliance determination, the

HB 7253

2006

252 evaluation shall be based upon the service areas selected by the
253 local governments and school board.

254 4. School capacity shall not be the basis to find any
255 amendment to a local government comprehensive plan not in
256 compliance pursuant to s. 163.3184 until the date established
257 pursuant to s. 163.3177(12)(i), provided data and analysis are
258 submitted to the state land planning agency demonstrating
259 coordination between the school board and the local government
260 to plan on addressing capacity issues.

261 (g) Interlocal agreement for school concurrency.--When
262 establishing concurrency requirements for public schools, a
263 local government must enter into an interlocal agreement that
264 satisfies the requirements in ss. 163.3177(6)(h)1. and 2. and
265 163.31777 and the requirements of this subsection. The
266 interlocal agreement shall acknowledge both the school board's
267 constitutional and statutory obligations to provide a uniform
268 system of free public schools on a countywide basis, and the
269 land use authority of local governments, including their
270 authority to approve or deny comprehensive plan amendments and
271 development orders. The interlocal agreement shall be submitted
272 to the state land planning agency by the local government as a
273 part of the compliance review, along with the other necessary
274 amendments to the comprehensive plan required by this part. In
275 addition to the requirements of ss. 163.3177(6)(h) and
276 163.31777, the interlocal agreement shall meet the following
277 requirements:

278 1. Establish the mechanisms for coordinating the
279 development, adoption, and amendment of each local government's

HB 7253

2006

public school facilities element with each other and the plans of the school board to ensure a uniform districtwide school concurrency system.

2. Establish a process for the development of siting criteria which encourages the location of public schools proximate to urban residential areas to the extent possible and seeks to collocate schools with other public facilities such as parks, libraries, and community centers to the extent possible.

3. Specify uniform, districtwide level-of-service standards for public schools of the same type and the process for modifying the adopted level-of-service standards.

4. Establish a process for the preparation, amendment, and joint approval by each local government and the school board of a public school capital facilities program which is financially feasible, and a process and schedule for incorporation of the public school capital facilities program into the local government comprehensive plans on an annual basis.

5. Define the geographic application of school concurrency. If school concurrency is to be applied on a less than districtwide basis in the form of concurrency service areas, the agreement shall establish criteria and standards for the establishment and modification of school concurrency service areas. ~~The agreement shall also establish a process and schedule for the mandatory incorporation of the school concurrency service areas and the criteria and standards for establishment of the service areas into the local government comprehensive plans.~~ The agreement shall ensure maximum utilization of school capacity, taking into account transportation costs and court-

HB 7253

2006

approved desegregation plans, as well as other factors. The agreement shall also ensure the achievement and maintenance of the adopted level-of-service standards for the geographic area of application throughout the 5 years covered by the public school capital facilities plan and thereafter by adding a new fifth year during the annual update.

6. Establish a uniform districtwide procedure for implementing school concurrency which provides for:

a. The evaluation of development applications for compliance with school concurrency requirements, including information provided by the school board on affected schools, impact on levels of service, and programmed improvements for affected schools and any options to provide sufficient capacity;

b. An opportunity for the school board to review and comment on the effect of comprehensive plan amendments and rezonings on the public school facilities plan; and

c. The monitoring and evaluation of the school concurrency system.

7. Include provisions relating to amendment of the agreement.

8. A process and uniform methodology for determining proportionate-share mitigation pursuant to subparagraph (e)1.

Section 3. Paragraph (p) is added to subsection (1) of section 163.3187, Florida Statutes, to read:

163.3187 Amendment of adopted comprehensive plan.--

(1) Amendments to comprehensive plans adopted pursuant to this part may be made not more than two times during any calendar year, except:

336 (p)1. For municipalities that are more than 90 percent
337 built-out, any municipality's comprehensive plan amendments may
338 be approved without regard to limits imposed by law on the
339 frequency of consideration of amendments to the local
340 comprehensive plan only if the proposed amendment involves a use
341 of 100 acres or fewer and:

342 a. The cumulative annual effect of the acreage for all
343 amendments adopted pursuant to this paragraph does not exceed
344 500 acres.

345 b. The proposed amendment does not involve the same
346 property granted a change within the prior 12 months.

347 c. The proposed amendment does not involve the same
348 owner's property within 200 feet of property granted a change
349 within the prior 12 months.

350 d. The proposed amendment does not involve a text change
351 to the goals, policies, and objectives of the local government's
352 comprehensive plan but only proposes a land use change to the
353 future land use map for a site-specific small scale development
354 activity.

355 e. The property that is the subject of the proposed
356 amendment is not located within an area of critical state
357 concern.

358 2. For purposes of this paragraph, the term "built-out"
359 means 90 percent of the property within the municipality's
360 boundaries, excluding lands that are designated as conservation,
361 preservation, recreation, or public facilities categories, have
362 been developed or are the subject of an approved development
363 order that has received a building permit and the municipality

HB 7253

2006

has an average density of five units per acre for residential development.

3.a. A local government that proposes to consider a plan amendment pursuant to this paragraph is not required to comply with the procedures and public notice requirements of s. 163.3184(15)(c) for such plan amendments if the local government complies with the provisions of s. 166.041(3)(c). If a request for a plan amendment under this paragraph is initiated by other than the local government, public notice of the amendment is required.

b. The local government shall send copies of the notice and amendment to the state land planning agency, the regional planning council, and any other person or entity requesting a copy. This information shall also include a statement identifying any property subject to the amendment that is located within a coastal high hazard area as identified in the local comprehensive plan.

4. Amendments adopted pursuant to this paragraph require only one public hearing before the governing board, which shall be an adoption hearing as described in s. 163.3184(7), and are not subject to the requirements of s. 163.3184(3)-(6) unless the local government elects to have them subject to those requirements.

5. This paragraph shall not apply if a municipality annexes unincorporated property that decreases the percentage of build-out to an amount below 90 percent.

6. A municipality shall notify the state land planning agency in writing of the municipality's built-out percentage

HB 7253

2006

prior to the submission of any comprehensive plan amendments
under this subsection.

Section 4. Paragraphs (h) and (i) are added to subsection
(4) of section 163.3247, Florida Statutes, to read:

163.3247 Century Commission for a Sustainable Florida.--

(4) POWERS AND DUTIES.--The commission shall:

(h) Be assigned to the Office of the Secretary of the
Department of Community Affairs for administrative and fiscal
accountability purposes but shall otherwise function
independently of the control and direction of the department.

(i) Develop a budget pursuant to chapter 216. The budget
is not subject to change by the department but shall be
submitted to the Governor together with the department's budget.

Section 5. Subsection (2) of section 339.2819, Florida
Statutes, is amended to read:

339.2819 Transportation Regional Incentive Program.--

(2) The percentage of matching funds provided from the
Transportation Regional Incentive Program shall be 50 percent of
project costs, ~~or up to 50 percent of the nonfederal share of~~
~~the eligible project cost for a public transportation facility~~
~~project.~~

Section 6. Paragraphs (l) and (n) of subsection (24) of
section 380.06, Florida Statutes, are amended, and subsection
(28) is added to that section, to read:

380.06 Developments of regional impact.--

(24) STATUTORY EXEMPTIONS.--

(1) Any proposed development within an urban service
boundary established under s. 163.3177(14) is exempt from the

HB 7253

2006

420 provisions of this section if the local government having
421 jurisdiction over the area where the development is proposed has
422 adopted the urban service boundary, and has entered into a
423 binding agreement with adjacent jurisdictions that would be
424 impacted and with the Department of Transportation regarding the
425 mitigation of impacts on state and regional transportation
426 facilities, and has adopted a proportionate share methodology
427 pursuant to s. 163.3180(16).

428 (n) Any proposed development or redevelopment within an
429 area designated as an urban infill and redevelopment area under
430 s. 163.2517 is exempt from ~~the provisions of~~ this section if the
431 local government has entered into a binding agreement with
432 jurisdictions that would be impacted and the Department of
433 Transportation regarding the mitigation of impacts on state and
434 regional transportation facilities, and has adopted a
435 proportionate share methodology pursuant to s. 163.3180(16).

436 (28) PARTIAL STATUTORY EXEMPTIONS.--

437 (a) If the binding agreement referenced under paragraph
438 (24)(1) for urban service boundaries is not entered into within
439 12 months after establishment of the urban service boundary, the
440 development-of-regional-impact review for projects within the
441 urban service boundary must address transportation impacts only.

442 (b) If the binding agreement referenced under paragraph
443 (24)(n) for designated urban infill and redevelopment areas is
444 not entered into within 12 months after the designation of the
445 area or July 1, 2007, whichever occurs later, the development-
446 of-regional-impact review for projects within the urban infill
447 and redevelopment area must address transportation impacts only.

HB 7253

2006

448 (c) If the binding agreement referenced under paragraph
449 (24) (m) for rural land stewardship areas is not entered into
450 within 12 months after the designation of a rural land
451 stewardship area, the development-of-regional-impact review for
452 projects within the rural land stewardship area must address
453 transportation impacts only.

454 (d) A local government that does not wish to enter into a
455 binding agreement or that is unable to agree on the terms of the
456 agreement referenced under paragraph (24) (l), paragraph (24) (m),
457 or paragraph (24) (n) shall provide written notification to the
458 state land planning agency of the desire not to enter into a
459 binding agreement or a failure to enter into a binding agreement
460 within the 12-month period referenced in paragraph (a),
461 paragraph (b), or paragraph (c). Following the notification of
462 the state land planning agency, the development-of-regional-
463 impact review for projects within the urban service boundary
464 under paragraph (24) (l), within a rural land stewardship area
465 under paragraph (24) (m), or for an urban infill and
466 redevelopment area under paragraph (24) (n) must address
467 transportation impacts only.

468 Section 7. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 949 CS

Municipalities

SPONSOR(S): Arza

TIED BILLS:

IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Local Government Council</u>	<u>6 Y, 2 N</u>	<u>Camechis</u>	<u>Hamby</u>
2) <u>Growth Management Committee</u>	<u>6 Y, 2 N, w/CS</u>	<u>Grayson</u>	<u>Grayson</u>
3) <u>State Infrastructure Council</u>	<u></u>	<u>Grayson</u> <i>AD</i>	<u>Havlicak</u> <i>RH</i>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

This bill limits the applicability of existing and future county charter provisions, countywide county ordinances, county land development regulations, and countywide special acts governing the use, development or redevelopment of land, or providing an exclusive method of municipal annexation.

Existing charter provisions, ordinances, land development regulations, and special acts governing the use, development or redevelopment of land, or providing an exclusive method of municipal annexation are no longer applicable in or to a municipality within a county unless approved by a majority vote of the electors within the municipality or the municipal governing board. Charter provisions, ordinances, land development regulations, and special acts governing the use, development or redevelopment of land, or providing an exclusive method of municipal annexation that are adopted after the effective date of this bill may not be applied to a municipality within the county unless first approved by a majority vote of the electors within the municipality or the municipal governing board.

This bill appears to be retroactive because it provides that existing county charter ordinances, county ordinances, county land development regulations, and countywide special acts are no longer applicable in or to municipalities within the county unless approved by the electors within the municipality or the municipal governing board.

This bill does not appear to have a fiscal impact on the state.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government – The bill may result in expanded government if a charter county contains multiple cities, and all those cities reject a charter county provision or an ordinance pursuant to such provision that governs land use, development or redevelopment of land, or municipal annexation, the result could be multiple ordinances governing the same subjects within the county. For example, Broward County contains 31 cities. Each of these cities may choose to enact independent ordinances governing land use in the area.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

County Government

Although the state's first counties were established in 1821, the Florida Constitution of 1861 gave counties constitutional status for the first time. Counties were recognized as legal subdivisions of the state and the Legislature was granted the power to create new counties and alter county boundaries. By 1925, county boundaries were fixed and have, with a few minor changes, remained unchanged. Today, there are 67 counties in Florida. Home rule charters have been adopted in 19 counties, and 75% of the state's population resides in a charter county.¹ Nine charter counties contain more than nine municipalities, while Broward and Palm Beach contain 30 or more.

Article VIII, section 1 of the State Constitution requires the state to be divided by law into political subdivisions called "counties". Counties may be created, abolished, or the boundaries modified by law. The State Constitution recognizes two types of county government in Florida: 1) counties that are not operating under a county charter (non-charter counties) and 2) counties that are operating under a county charter adopted by the electors of the county in a countywide special election called for that purpose.

Article VIII, sections 1(f) and (g) of the State Constitution, respectively address non-charter and charter county powers as follows:

(f) Non-charter government. Counties not operating under county charters shall have such power of self-government as is provided by general or special law. The board of county commissioners of a county not operating under a charter may enact, in a manner prescribed by general law, county ordinances not inconsistent with general or special law, but an ordinance in conflict with a municipal ordinance shall not be effective within the municipality to the extent of such conflict.

(g) Charter government. Counties operating under county charters shall have all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. *The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances.*
[Emphasis added]

¹ The following counties have adopted charters: Alachua, Brevard, Broward, Charlotte, Clay, Columbia, Miami-Dade (a consolidated city), Duval, Hillsborough, Lee, Leon, Orange, Osceola, Palm Beach, Pinellas, Polk, Sarasota, Seminole, and Volusia.

Perhaps the most significant difference between non-charter and charter county powers is that the constitution provides a direct constitutional grant of the power of self-government to a county operating under a charter approved by the electors of the county, whereas a non-charter county has only those powers the Legislature provides by general or special law.

Further, the Florida Supreme Court has concluded that section 1(g), State Constitution, "was intended to specifically give charter counties two powers unavailable to non-charter counties: the power to preempt conflicting municipal ordinances, and the power to avoid intervention of the legislature by special laws. The power to preempt is the power to exercise county power to the exclusion of municipal power. Preemption is a transfer of power, from exclusive municipal authority or concurrent authority, to exclusive county authority".²

Under this constitutional grant of power, a county's charter may authorize the county to regulate an activity on a countywide basis and provide that the county regulation prevails over any conflicting municipal ordinance.³ The Florida Supreme Court has concluded that section 1(g), State Constitution, permits "regulatory preemption by counties" and that a charter county may preempt a municipal regulatory power in such areas when county-wide uniformity will best further the ends of government.⁴ In addition to this grant of power, however, is the limitation imposed by the constitution, which grants charter counties all powers of self-government "not inconsistent with general law". The interrelationship between the grant of power to determine which ordinances prevails and the limitation of charter county authority by general law is unclear and has not been directly addressed by the Florida courts. Therefore, the constitutionality of a general law that limits a charter county's power to determine that county ordinances prevail over any conflicting municipal ordinances is uncertain.

Adoption of County Charters

A county that does not have a charter form of government may locally initiate and adopt a county home rule charter pursuant to the provisions of ss. 125.60-125.64, F.S. In addition to satisfying multiple statutory requirements, the charter must be adopted by a majority vote of the qualified electors of the county.

Upon petition by 15 percent of the qualified electors of a county or following adoption of a resolution by the board of county commissioners requesting that a charter commission be established, the charter commission must be appointed. The commission must conduct a comprehensive study of the operation of county government and of the ways it could be improved or reorganized. The commission must conduct three public hearings, vote upon a proposed charter at its last hearing, and forward the proposed charter to the board of county commissioners for the holding of a referendum election. Immediately after the commission submits a proposed charter, the board of county commissioners must call a special election within a specified time frame to determine whether the qualified electors of the county approve the proposed charter. If a majority of those voting disapprove the proposed charter, a new referendum may not be held for two years. Once adopted, the charter may be amended only by vote of the county electors.

Alternatively, the board of county commissioners may propose by ordinance a charter that is consistent with Part IV of ch. 125, F.S., the "Optional Charter County Law." Section 125.86, F.S., specifies the powers and duties of the charter county, which include all powers of local self-government "not

² *Broward County v. City of Fort Lauderdale*, 480 So.2d 631 (Fla. 1985).

³ *Broward County v. City of Fort Lauderdale*, 480 So.2d 631 (Fla. 1985); *City of New Smyrna Beach v. County of Volusia*, 518 So.2d 1379 (Fla. 1988).

⁴ *City of New Smyrna Beach v. County of Volusia*, 518 So.2d 1379 (Fla. 1988), citing *Broward County v. City of Fort Lauderdale*, 480 So.2d 631 (Fla. 1985).

inconsistent with general law as recognized by the Constitution and laws of the state and which have not been limited by the charter.”

County Statutory Home Rule Powers

Section 125.01, F.S., grants broad home rule powers to non-charter and charter counties. These powers include the power to:

- Prepare and enforce comprehensive plans for the development of the county;
- Establish, coordinate, and enforce zoning and such business regulations as are necessary for the protection of the public;
- Adopt, by reference or in full, and enforce housing and related technical codes and regulations; establish and administer programs of housing, slum clearance, community redevelopment, conservation, flood and beach erosion control, air pollution control, and navigation and drainage and cooperate with governmental agencies and private enterprises in the development and operation of such programs; and
- Provide and regulate waste and sewage collection and disposal, water and alternative water supplies, including, but not limited to, reclaimed water and water from aquifer storage and recovery and desalination systems, and conservation programs.

The section specifically provides that the legislative purpose is to be liberally construed to grant all counties broad home rule powers authorized in the State Constitution. Under this broad grant of general law powers, specific statutory authority to enact ordinances or to deliver services to residents of the counties is not required. All counties have home rule authority to enact ordinances for any county purpose absent a general law limitation.

Section 125.86(7), F.S., vests the powers of a charter county in the board of county commissioners. One power explicitly granted to the board of county commissioners of a charter county is the power to “[a]dopt, pursuant to the provisions of the charter, such ordinances of countywide force and effect as are necessary for the health, safety, and welfare of the residents. It is the specific legislative intent to recognize that a county charter may properly determine that certain governmental areas are more conducive to uniform countywide enforcement and may provide the county government powers in relation to those areas as recognized and as may be amended from time to time by the people of that county”.

County Provisions Regarding Land Use⁵

In recent years, some charter counties have amended their charter to provide an exclusive method for annexation. Some counties have also enacted building height limitations that apply in municipal jurisdictions that are within the county. In addition, some counties exercise land use planning responsibility, in varying degrees, for municipalities located within the county and certain land use decisions within such municipalities may require county approval. These types of charter provisions or ordinances have the effect of preempting municipal authority with respect to land use planning.

For example, voters in Palm Beach and Seminole counties approved charter provisions relating to annexation in 2004. The Palm Beach County provision gave county commissioners the ability to set annexation guidelines by ordinance. Several municipalities challenged the charter amendment in circuit court.¹² The circuit court held, in part, that the provisions allowing the county to define the exclusive method for voluntary annexation, by ordinance, violates the requirement in s. 171.044(4), F.S., that an exclusive method of annexation be contained in the charter itself.¹³ Seminole County voters approved a charter amendment that would give the county final authority over land-use changes and

⁵ *Senate Staff Analysis and Economic Impact Statement for SB 1608*, prepared by the Senate Community Affairs Committee, p. 4 (March 15, 2006).

development densities in certain portions of east Seminole County. This provision is currently on appeal.

Municipal Government

The municipal form of government has been recognized in Florida since 1821. Historically, counties have provided state services such as courts, tax collections, sheriff functions, health and welfare services uniformly throughout the county, while municipalities are created to perform additional functions and provide additional services for the particular benefit of the population within the municipality. Currently, there are 408 municipalities in Florida.

Article VIII, section 2 of the State Constitution provides that “[m]unicipalities may be established or abolished and their charters amended pursuant to general or special law.” Municipal home rule powers are provided in that section as follows:

Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law. Each municipal legislative body shall be elective.

In general, a municipality may exercise any power for municipal purposes except as otherwise provided by general or special law. In 1972, the Legislature enacted ch. 166, F.S., granting municipalities broad governmental, corporate, and proprietary powers necessary to enable municipalities to independently function and provide services to residents.

Growth Management and Land Use Generally⁶

The Local Government Comprehensive Planning and Land Development Regulation Act of 1985 (“Act”), ss. 163.3161-163.3246, F.S., establishes a growth management system in Florida which requires each local government (or combination of local governments) to adopt a comprehensive land use plan that includes certain required elements, such as: a future land use plan; capital improvements element; and an intergovernmental coordination element. The local government comprehensive plan is intended to be the policy document guiding local governments in their land use decision-making. Under the Act, the Department of Community Affairs adopted by rule minimum criteria for the review and determination of compliance of the local government comprehensive plan elements with the requirements of the Act. Such minimum criteria require that the elements of the plan are consistent with each other and with the state comprehensive plan and the regional policy plan; that the elements include policies to guide future decisions and programs to ensure the plans would be implemented; that the elements include processes for intergovernmental coordination; and that the elements identify procedures for evaluating the implementation of the plan.

Annexation⁷

Section (2)(c), Art. VIII of the State Constitution, provides authority for the Legislature to establish annexation procedures for all counties except Miami-Dade. Annexation can occur using several methods: special act, charter, interlocal agreement, voluntary annexation, or involuntary annexation. Annexation through a special act must meet the notice and referendum requirements of section 10, Art. III of the State Constitution, which are applicable to all special acts.

The “Municipal Annexation or Contraction Act” in ch. 171, F.S., codifies the State’s annexation procedures and was enacted in 1974 to ensure sound urban development, establish uniform methods for the adjustment of municipal boundaries, provide for efficient service delivery in areas that become

⁶ *Id.* at p. 1.

⁷ *Id.* at p. 2 (With modifications.)

urban, and limit annexation to areas where municipal services can be provided.⁸ At the time ch. 171, F.S., was created, the prevailing policy focused on the strength of county governments and regional planning agencies. Consequently, Florida's annexation statutes concentrate on the expansion and contraction of municipal boundaries.⁹

Current annexation policy in Florida has given rise to a number of issues: difficulty in planning to meet future service needs, confusion over logical service areas and maintenance of infrastructure, duplication of essential services, and zoning efforts thwarted by landowners shopping for the best development climate. While existing annexation procedures may adequately address the concerns of landowners within a proposed annex area, the residents of remaining unincorporated areas or residents of the municipality proposing the annexation may also be significantly affected by the potential loss of revenue or inefficiencies in service delivery.

An area proposed for annexation must be unincorporated, contiguous, and reasonably compact.¹⁰ For a proposed annexation area to be contiguous under ch. 171, F.S., a substantial portion of the annexed area's boundary must be coterminus with the municipality's boundary.¹¹ "Compactness," for purposes of annexation, is defined as the concentration of property in a single area and does not allow for any action that results in an enclave, pocket, or fingers in serpentine patterns.¹²

A newly annexed area comes under the city's jurisdiction on the effective date of the annexation. Following annexation, a municipality must apply the county's land use plan and zoning regulations until a comprehensive plan amendment is adopted that includes the annexed area in the municipalities' Future Land Use Map. It is possible for the city to adopt the comprehensive plan amendment simultaneously with the approval of the annexation. However, there is no requirement that a city amend its comprehensive plan prior to annexation.¹³ In the interim, a city must apply county regulations or wait to apply its own rules.

Cities may annex enclaves of 10 acres or less by interlocal agreement with the county under the provisions of s. 171.046, F.S. An enclave is defined in s. 171.031(13), F.S., as any unincorporated improved or developed area lying within a single municipality or surrounded by a single municipality and a manmade or natural obstacle that permits traffic to enter the unincorporated area only through the municipality. Enclaves of 10 acres or less can also be annexed by municipal ordinance when there are fewer than 25 registered voters living in the enclave and at least 60 percent of those voters approve the annexation in a referendum. In a similar process, s. 163.3171, F.S., allows for a joint planning agreement between a municipality and county to allow annexation of unincorporated areas adjacent to a municipality.

Section 171.044, F.S., provides the procedures for a voluntary annexation which occurs when 100 percent of the landowners in an area petition a municipality. In addition to the annexing municipality enacting an ordinance allowing for the annexation to occur, there are certain notice requirements that must be met. This section does not apply where a county charter provides the exclusive method for voluntary annexation.¹⁴ Also, the voluntary annexation procedures in this section are considered supplemental to any other procedure contained in general or special law.¹⁵

⁸ s. 171.021, F.S.

⁹ See Lance deHaven-Smith, Ph.D., FCCMA Policy Statement on Annexation, Oct. 12, 2002, at 16-17, http://www.fccma.org/pdf/FCCMA_Paper_Final_Draft.pdf.

¹⁰ ss. 171.0413-171.043, F.S.

¹¹ s. 171.031(11), F.S.

¹² s. 171.031(12), F.S.

¹³ See *1000 Friends of Fla., Inc. v. Florida Dep't of Community Affairs*, 824 So. 2d 989 (Fla. 4th DCA 2002).

¹⁴ s. 171.044(4), F.S.

¹⁵ s. 171.044(4), F.S.

EFFECT OF PROPOSED CHANGES

This bill creates s. 163.3172, F.S., to address the application to municipalities of any charter county charter provision or ordinance pursuant to such provision that affects the authority of a municipality within that charter county to regulate the use, development or redevelopment of land, or municipal annexation. This new section provides legislative findings as follows:

- Municipalities are the units of local self-government closest to the people they serve and thereby are best situated to determine the unique needs of their communities;
- Municipalities provide their residents a true voice as to the character and values of their local communities;
- There have been increasing and numerous preemptions of municipal democratic powers by other forms of local government;
- Municipalities must retain the authority to perform the functions that are of most immediate concern to their citizens.

The bill differentiates between charter county actions before or after July 1, 2006, the effective date of the bill, in the following manner.

Charter County Actions Prior to July 1, 2006: Any charter county charter provision affecting the authority of a municipality regarding the use, development, or redevelopment of land, or municipal annexation, enacted before July 1, 2006, will be effective within the municipality, subject to modification or repeal by municipal ordinance.

Charter County Actions On or After July 1, 2006: Any charter county charter provision affecting the authority of a municipality regarding the use, development, or redevelopment of land, or municipal annexation, enacted on or after July 1, 2006, may not apply to or within the municipality unless the provision or ordinance is approved by a vote of either:

- The municipality's governing body; or
- The electors of the municipality at a duly called municipal election.

The bill provides that effectiveness of such charter county provisions or ordinances are affected as described above notwithstanding ch. 163, F.S., or any other law.

By "notwithstanding" chs. 163 and any other law, the bill is, in effect, a "preemption" of those general laws previously enacted by the Legislature. Therefore, any provision in those statutes that authorize or provide for countywide application of county ordinances or regulations governing the use, development, or redevelopment of land are no longer applicable. The full impact of "notwithstanding" these general laws is unknown due to the broad range of subjects potentially covered by these provisions. For example, ch. 163, F.S., broadly governs intergovernmental programs, including:

- Miscellaneous Programs, such as the Florida Interlocal Cooperation Act of 1969;
- Growth Policy and County and Municipal Planning;
- Land Development Regulation;
- Community Redevelopment;
- Neighborhood Improvement Districts; and
- Regional Transportation Authorities.

Chapter 125, F.S., sets forth the broad Legislative grant of home rule powers to charter and non-charter counties and generally relates to county governance, including provisions regarding:

- Powers and Duties of County Commissioners;
- Self-Government of Counties, which grants general and specific powers to non-charter and charter counties;

- County Administration; and
- Optional County Charters.

Chapter 171, F.S., is known as the "Municipal Annexation or Contraction Act." The purposes of the act are to provide procedures for adjusting the boundaries of municipalities through annexations or contractions of corporate limits and to set forth criteria for determining when annexations or contractions may take place. Section 171.044, F.S., establishes a method of "voluntary annexation" whereby "[t]he owner or owners of real property in an unincorporated area of a county which is contiguous to a municipality and reasonably compact may petition the governing body of said municipality that said property be annexed to the municipality." Section 171.044(4), F.S., provides that "[t]he method of annexation provided by this section shall be supplemental to any other procedure provided by general or special law, except that this section shall not apply to municipalities in counties *with charters which provide for an exclusive method of municipal annexation.*" This bill essentially preempts subsection (4) so that any existing or future county charter provision that provides an exclusive method of voluntary annexation must be approved by the city commission or the qualified electors of a city prior to application of the provision to the city.

The bill explicitly exempts from its provisions:

- Any county as defined in s. 125.011, F.S., which only includes Miami-Dade County.¹⁶
- Any countywide impact fee for transportation or public schools approved by the governing board of a charter county.
- Any law or charter county provision or ordinance that sets minimum standards for protecting the environment through the prohibition or regulation of air, water, soil, or property contamination.
- Any special district created by special act.

C. SECTION DIRECTORY:

Section 1. Creates s. 163.3172, F.S., limiting application of charter county charter provisions or ordinances pursuant to such charter provisions that govern land use, development and redevelopment of land, and municipal annexation.

Section 2. Providing an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: This bill does not have a direct impact on local government revenues.
2. Expenditures: Please see Mandates Analysis below.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: All charter county charter provisions and ordinances pursuant to such charter provisions that govern land use, redevelopment and development

¹⁶ The term "county" is defined in s. 125.011, F.S., as "any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VIII of the Constitution of 1885, as preserved by Art. VIII, s. 6(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred. Use of the word "county" within the above provisions shall include "board of county commissioners" of such county."

of land, are either retained in effect within municipalities located within the charter county unless repealed or altered by municipal action, or are not in effect until approved by a vote of the municipal governing body or the electors, depending upon when the provision or ordinance was enacted. Cities may enact ordinances governing land use, regardless of a charter county provision or ordinance, as long as the city complies with state land use requirements. This may result in less stringent permitting and land use regulations within some cities, benefiting private entities wishing to develop land in these areas. On the other hand, cities would be authorized to enact more stringent ordinances than those that currently apply on a countywide basis.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. The bill does not reduce the percentage of a state tax shared with counties or municipalities. The bill does not reduce the authority that municipalities have to raise revenue.

2. Other: Article VIII, s. 1(g) of the State Constitution grants charter counties the power to determine, in the county charter, which ordinances prevail in the event of conflict between county and municipal ordinances.¹⁷ This constitutional provision permits regulatory preemption by counties of municipal regulatory power if countywide uniformity will best further the ends of government.¹⁸ However, in addition to granting charter counties the express power to provide, by charter, that county ordinances prevail in the event of a conflict with municipal ordinances, the constitution also provides that charter counties have all powers of self-government "not inconsistent with general law".¹⁹ The question is this: Is the Legislature authorized to establish a process by general law to determine which ordinances prevail in the event of a conflict between charter county and municipal ordinances, or does the constitution grant that power exclusively to charter counties?

The interrelationship between the express constitutional grant of power to charter counties to determine which ordinances prevail, and the Legislature's authority to limit the powers of charter counties by general law has not been directly addressed by the Florida courts. The fact that the Legislature is authorized to limit municipal and charter county home rule authority by general law is undisputed and well-settled in case law; however, the Florida courts have not addressed the question of whether the Legislature may limit a charter county's direct grant of constitutional authority to determine whether county ordinances prevail over municipal ordinances. Therefore, the constitutionality of a general law preemption of charter county authority to determine whether county ordinances prevail over municipal ordinances is uncertain until directly addressed by the courts.

B. RULE-MAKING AUTHORITY: Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS: The provisions of this bill are retroactive. A county that has a charter, ordinance, or land development regulation that currently preempts municipalities within the county with regard to land use, development or redevelopment of land, or that provides an exclusive method for annexation, may be repealed or amended by a municipality as provided for in this bill.

¹⁷ "The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances." Art. VIII, s. 1(g), Fla. Const.

¹⁸ *Broward County v. City of Fort Lauderdale*, 480 So.2d 631 (Fla. 1985).

¹⁹ "Counties operating under county charters shall have all powers of local self-government not inconsistent with general law..." Art. VIII, s. 1(g), Fla. Const.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 5, 2006 the Growth Management Committee adopted one amendment to HB 949. The amendment provides that no charter county provision adopted on or after July 1, 2006, or ordinance adopted pursuant to the provisions of this bill shall apply to or within the municipality, unless such a provision or ordinance is:

- Approved by a vote of the municipality's governing body; or
- Approved by a vote of the electors of the municipality at a duly called municipal election.

The amendment further provided that any law or charter county provision or ordinance adopted before July 1, 2006, that affects the authority of a municipality within a charter county to regulate the use, development or redevelopment of land or that affects municipal annexation within a charter county shall be effective within the municipality on the effective date of this bill, subject to modification or repeal by ordinance of the municipality.

The amendment further provides that the provisions of this bill do not apply to:

- Any county as defined in s. 125.001(1);
- Any countywide impact fee for transportation or public schools approved by the governing board of a charter county;
- Any law or charter county provision or ordinance that sets minimum standards for protecting the environment through the prohibition or regulation of air, water, soil, or property contamination;
- Any special district created by special act.

HB 949

2006
CS

CHAMBER ACTION

The Growth Management Committee recommends the following:

Council/Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

An act relating to municipalities; creating s. 163.3172, F.S.; providing legislative findings; prohibiting effect or application of certain county provisions within municipalities unless approved by county and municipal electors or the municipal governing board; providing for effect of certain laws or charter county provisions or ordinances in certain municipalities; providing an exception; providing for nonapplication to certain counties, impact fees, laws or charter county provisions or ordinances, or special districts; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 163.3172, Florida Statutes, is created to read:

163.3172 Municipalities; county authority limitations.--

HB 949

2006
CS

(1) The Legislature finds that municipalities are the units of local self-government closest to the people they serve and thereby are best situated to determine the unique needs of their communities. Municipalities provide their residents a true voice as to the character and values of their local communities. The Legislature recognizes there have been increasing and numerous preemptions of municipal democratic powers by other forms of local government and concludes that municipalities must retain the authority to perform the functions that are of most immediate concern to their citizens.

(2) Notwithstanding this chapter or any other law, any charter county charter provision adopted on or after July 1, 2006, or ordinance adopted pursuant to such charter provision that affects the authority of a municipality within the charter county to regulate the use, development, or redevelopment of land or that affects municipal annexation within a charter county may not apply to or within the municipality unless such charter provision or ordinance is approved by a vote of:

- (a) The municipality's governing body; or
- (b) The electors of the municipality at a duly called municipal election.

(3) Notwithstanding this chapter or any other law, any law or charter county provision or ordinance adopted before July 1, 2006, that affects the authority of a municipality within a charter county to regulate the use, development, or redevelopment of land or that affects municipal annexation within a charter county shall be effective within the

HB 949

2006
CS

municipality on July 1, 2006, subject to modification or repeal
by ordinance of the municipality.

(4) This section shall not apply to:

(a) Any county as defined in s. 125.011;

(b) Any countywide impact fee for transportation or public
schools approved by the governing board of a charter county;

(c) Any law or charter county provision or ordinance that
sets minimum standards for protecting the environment through
the prohibition or regulation of air, water, soil, or property
contamination; or

(d) Any special district created by special act.

Section 2. This act shall take effect July 1, 2006.